

**THE  
KINGSTON  
MUNICIPAL  
CODE**

Prepared by the



**Municipal Technical Advisory Service**

*In cooperation with the Tennessee Municipal League*

July 2023

**CITY OF KINGSTON, TENNESSEE**

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**VICE MAYOR**

Tony Brown

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Stephanie Wright

**CITY MANAGER**

David Bolling

**CITY ATTORNEY**

Andrew Thompson

## PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city/town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city/town 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 the codes team: Kelley Myers and Nancy Gibson is gratefully acknowledged.

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

Section 4.09. Ordinances -- adoption, codification, etc. The enacting clause of each ordinance shall be: "Be it ordained by the City Council of the City of Kingston." Every proposed ordinance shall be in writing. Each ordinance, before being adopted, shall be read at two (2) separate meetings, which maybe regular or special. As used in this section, "read" means the reading of the caption of the ordinance. All ordinances of a penal nature passed shall be published at least once in the official newspaper of the city, and no such ordinance shall be in force until it is published. The council shall, within a two-year period after the adoption of this charter, and every ten (10) years thereafter, arrange for the codification of the ordinances of the city. Copies of this charter, code, and current loose-leaf editions of the official code shall be maintained and made available for purchase by the general public at a fee to be established by the council. In addition, each councilman shall be furnished a copy for his use during his term of office. [As replaced by Priv. Acts 2007, ch. 57, § 1]

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**TITLE 1**

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

**CHAPTER**

1. CITY COUNCIL.
2. CITY MANAGER.
3. FINANCE DIRECTOR, CITY CLERK AND DEPUTIES.
4. CODE OF ETHICS.
5. MUNICIPAL ELECTIONS

**CHAPTER 1**

**CITY COUNCIL<sup>2</sup>**

**SECTION**

- 1-101. Meetings.
- 1-102. Order of business.
- 1-103. General rules of order.

**1-101. Meetings<sup>3</sup>.** (1) Regular meetings. The regular meetings of the council shall be held at 6:00 P.M. on the second Tuesday of each month in the Council Chamber of the Kingston City Hall; however, upon approval of a majority of council, any such regular meeting may be held at another site, the public welfare requiring. Provided, however, the regular meeting of any specific

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<sup>1</sup>Charter reference

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

Municipal code references

Building and plumbing inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

<sup>2</sup>Charter references

City council: art. IV.

Compensation of mayor and councilmen: art. IV, § 4.05.

Elections: art. III.

<sup>3</sup>Charter reference

Meetings of council: art. III, § 4.07.

month may be held on another date and time if acceptable to the majority of the council with at least twenty-four (24) hours' notice being given to the public and all members of council.

(2) Special meetings. Special meetings may be called by the mayor or by at least two (2) councilmen on twenty-four (24) hours' notice, or shorter in case of an emergency, to the other members of the council personally served by the mayor, a councilman or a police officer. The notice shall indicate in a general way the business to be considered, and business not embraced in the call shall not be considered unless all members of the council are present.

(3) Quorum. Except as provided in article IV, section 4.04, of the city charter, four (4) members of the council, the mayor being a member thereof, shall constitute a quorum for the conduct of business; provided, however, in the absence of a quorum, three (3) members may adjourn the meeting to a later date giving at least twenty-four (24) hours' prior notice thereof to absent members.

(4) Public accessibility. All council meetings, both regular and special, shall be open to the public and citizens shall have a reasonable opportunity to be heard. The council shall exercise its powers only at public meetings. (Ord. #15-11-10, Dec. 2015)

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

- (1) The meeting will be called to order by the mayor.
- (2) The roll will be called by the city clerk.
- (3) The minutes of the previous meeting will be read by the clerk and approved or corrected by the council.
- (4) The council will hear comments from the public.
- (5) The council will hear communications from the city manager.
- (6) The council will hear reports from the mayor, councilmen, and other officers and committees.
- (7) The council will dispose of unfinished business.
- (8) The council will consider new business.
- (9) The meeting will be adjourned.

The agenda of the regular council meeting shall be prepared under the direction of the city manager. The mayor, any member of council, the city manager or the city attorney may submit any item of business for inclusion on the agenda and the city manager shall add such matter to the agenda. Any such item must be submitted no later than 4:30 P.M. on the Wednesday preceding any regular council meeting. No item of business may be added to the agenda for consideration by the city council at the next regular council meeting after the above stated time except by unanimous consent of all members of council. (2009 Code, § 1-102)

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in *Robert's Rules of Order, Newly Revised* (most recent edition) shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with special rules in the municipal charter or adopted by the council and set out in this code. (2009 Code, § 1-103)

## CHAPTER 2

### CITY MANAGER<sup>1</sup>

#### SECTION

1-201. To be bonded.

1-202. Annual performance evaluation.

**1-201. To be bonded.** The city manager shall, before entering upon his duties, execute a fidelity bond in such sum as the city council shall prescribe. Said bond shall be with a surety company authorized to do business in the State of Tennessee and shall be paid for by the city. (2009 Code, § 1-201)

**1-202. Annual performance evaluation.** Annual evaluations of the city manager evaluation form (similar to attachment) will be distributed to each council member. Each council member will be asked to complete the evaluation form and forward it to MTAS, 1610 University Avenue, Knoxville, TN 37921, Attn: Municipal Management Consultant for Kingston, within thirty (30) days of the distribution of the form. An MTAS assigned consultant will consolidate reports received from council members into one (1) report to be presented to the city manager within thirty (30) days of the distribution of the form.

After private consultation to discuss the evaluation with the city manager, the MTAS representative will provide a copy of the combined evaluation to city council members with his suggested recommendations to the city manager that could help to broaden his expertise. (2009 Code, § 1-202; modified)

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<sup>1</sup>Charter references

Appointment, compensation, etc.: art. IV, § 5.01.

Powers and duties: art. V., § 5.04.

**CHAPTER 3****FINANCE DIRECTOR, CITY CLERK AND DEPUTIES**<sup>1</sup>**SECTION**

1-301. To be bonded.

**1-301. To be bonded.** The finance director, city clerk and any deputies shall, before entering upon their duties, execute a fidelity bond in such sum as the city council shall prescribe. Said bond shall be with a surety company authorized to do business in the State of Tennessee and shall be paid for by the city. (2009 Code, § 1-301)

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<sup>1</sup>Charter reference  
Art. VI, § 6.05.

## CHAPTER 4

### CODE OF ETHICS

#### SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in non-voting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Exceptions.
- 1-407. Use of information.
- 1-408. Use of city time, facilities, etc.
- 1-409. Use of position or authority.
- 1-410. Outside employment.
- 1-411. Ethics complaints.
- 1-412. Violations and penalty.

**1-401. Applicability.** This chapter serves as the code of ethics for personnel of the City of Kingston, Tennessee (herein city). It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation or other instrumentality appointed or created by the city. (2009 Code, § 1-401)

**1-402. Definition of "personal interest."** (1) For purposes of this chapter, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (2009 Code, § 1-402)



**1-403. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (2009 Code, § 1-403)

**1-404. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (2009 Code, § 1-404)

**1-405. Acceptance of gratuities, etc.** No employee shall solicit or accept, directly or indirectly, on behalf of himself or herself or any member of the employee's household, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan guarantee or any other item of monetary value, from any person or entity that:

- (1) Has, or is seeking to obtain, contractual or other business or financial relations with any department of city government.
- (2) Conducts operations or activities with the City of Kingston.
- (3) Has interests that may be substantially affected by the performance or non-performance of the employee's official duties. (2009 Code, § 1-405)

**1-406. Exceptions.** (1) The prohibition on accepting gifts in § 1-405 does not apply to:

- (a) A gift given by a member of the employee's immediate family, or by an individual if the gift is given for non-business purpose and is motivated by a close personal friendship and not by the position of the employee.
- (b) Informational materials in the form of books, articles, periodicals, other written materials, audio tapes, video tapes, or other forms of communication.
- (c) Sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers, or potential customers or suppliers in the ordinary course of business.
- (d) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento or other similar items;

provided, that any such item shall not be in a form which can readily converted to cash.

(e) Food, refreshments, foodstuffs, entertainment, or beverages provided as part of a meal or other event, if the value of such items does not exceed fifty dollars (\$50.00) per occasion; provided further that the value of a gift made pursuant to this subsection may not be reduced below the monetary limit by dividing the cost of the among two (2) or more persons or entities identified in § 1-405.

(f) There may be circumstances where refusal or reimbursement of a gift or dining with a value exceeding fifty dollars (\$50.00) may be awkward and contrary to the larger interests of the city. In such circumstances, the employee shall disclose the gift/dinner, including a description, estimated value, the person or entity providing the gift/dinner and additional explanations as needed within fourteen (14) calendar days of the occurrence to the internal auditor or director of finance and administration. A form for this purpose will be provided.

(g) Food, refreshments, meals, foodstuffs, entertainment, beverages or intrastate travel expenses that are provided in connection with an event where an employee is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization which has regular meetings.

(h) Loans from established financial institutions made in the ordinary course of business on usual and customary terms, so long as there are no guarantees of collateral provided by any person described in § 1-405

(i) Money, goods or any other commodity donated to any employee, as defined in this chapter, for the distribution to any segment of the general public. For example, money donated to the Fraternal Order of Police by private retailers for the purpose of selecting identified under privileged children, transporting them to area stores and buying them Christmas gifts.

(2) An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the city:

(a) 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

(b) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing city business. (2009 Code, § 1-406)

**1-407. 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. (2009 Code, § 1-407)

**1-408. Use of city time, facilities, etc.** (1) An official or employee may not use or authorize the use of city 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 city time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the city. (2009 Code, § 1-408)

**1-409. 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 city.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city. (2009 Code, § 1-409)

**1-410. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the city position or conflicts with any provision of the city's charter or any ordinance or policy. (2009 Code, § 1-410)

**1-411. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the city's governing body, the

governing body shall convene in special session as a committee of the whole to conduct a hearing to consider the merits of the complaint and make a determination that either: the complaint has merit; does not have merit; or that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation, or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (2009 Code, § 1-411)

**1-412. Violations and penalty.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the city'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. (2009 Code, § 1-412)

**CHAPTER 5**

**MUNICIPAL ELECTIONS**

**SECTION**

1-501. Non-resident voters.

**1-501. Non-resident voters.** In accordance with *Tennessee Code Annotated* § 2-6-205, the City of Kingston, Tennessee non-resident property owner voters shall cast their Kingston municipal ballots as absentee ballots. (Ord. #18-2-13-1, March 2018)

## TITLE 2

### BOARDS AND COMMISSIONS, ETC.

#### CHAPTER

1. PARKS AND RECREATION COMMISSION.
2. LIBRARY BOARD.
3. BEAUTIFICATION COMMITTEE.

#### CHAPTER 1

### PARKS AND RECREATION COMMISSION<sup>1</sup>

#### SECTION

- 2-101. Membership, tenure, compensation and vacancies.
- 2-102. Organization and general powers and duties.
- 2-103. Personnel.
- 2-104. Finances.
- 2-105. Reports to council.

**2-101. Membership, tenure, compensation and vacancies.** There is hereby created a parks and recreation commission, which shall consist of nine (9) persons, to be appointed by the city council, to serve for terms of four (4) years (one (1) member must be a member of the city council who will serve during his or her term of office as councilman) or until their successors are appointed, except that all members serving at the time the ordinance comprising this section reducing the membership from twelve (12) to nine (9) becomes effective shall continue to serve until the expiration of their term. The members of such commission shall serve without pay. Vacancies in such commission occurring other than by expiration of term shall be filled only for the unexpired term, and such appointments shall be made by the mayor. Members shall live within the city limits. (2009 Code, § 2-101)

**2-102. Organization and general powers and duties.** Immediately after the appointment of the members and annually thereafter, the parks and recreation commission shall organize by electing from its membership a chairman and such other officers as it may deem necessary. The commission may make recommendations to the city manager and city council regarding the rules and regulations for the proper conduct of public recreation for the city. The said commission may advise the city manager and city council regarding the conduct of any form of recreation or cultural activity that will employ the leisure time of the people in a constructive and wholesome manner. The

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<sup>1</sup>Municipal code reference  
Regulation park hours: § 16-114.

implementation of all facets of the recreation program of the city shall be the responsibility of the city manager. (2009 Code, § 2-102)

**2-103. Personnel.** The parks and recreation commission may make recommendations to the city manager regarding the employment of all personnel necessary for a well rounded recreation program. Such personnel may include but shall not be limited to a director of recreation, baseball directors, maintenance and clean-up personnel, playground supervisors, etc. Such recommendations shall be considered but shall not be binding upon the city manager in the employment of personnel. Preference should be given to residents of the city. All personnel shall be under the supervision of the city manager. (2009 Code, § 2-103)

**2-104. Finances.** The parks and recreation commission may submit a proposed annual budget to the city manager with recommendations for the funding of the city recreation program by the city.

All revenues received by the city from the rental or leasing of recreational areas and facilities such as concession stands, boat docks, etc., shall be turned over to the city to be applied to the parks and recreation budget for making capital improvements on and maintaining recreational areas. All purchases shall be made in accordance with the city's purchasing procedures. (2009 Code, § 2-104, modified)

**2-105. Reports to council.** The parks and recreation commission shall make such reports of the commission meetings to council as council may require and such reports shall be retained as permanent records at city hall. (2009 Code, § 2-105)

## CHAPTER 2

### LIBRARY BOARD<sup>1</sup>

#### SECTION

2-201. Membership and election.

2-202. Terms of office.

2-203. Officers and duties.

2-204. Board duties.

**2-201. Membership and election.** (1) The board of directors of the Kingston City Library shall consist of seven (7) members. Not more than one (1) official of the city council shall serve on the board. In addition, the head librarian shall be an ex officio member of the board.

(2) All members of the board shall be appointed by the city council. The library board may submit recommendations to the city council for consideration. Notification of appointment shall be made by the council and by the board.

(3) Members of the board of directors shall be qualified voters and preferably residents of the City of Kingston. (2009 Code, § 2-201)

**2-202. Terms of office.** (1) The term of office shall be for a period of three (3) years, except that the member of the city council shall serve during his or her term of office on city council. The incumbent members of the board at the time of passage of this section shall continue in their normal term of office until expiration. Thereafter, except for the council member, the board members shall be appointed such that at least two (2) terms of office expire each year.

(2) Appointment to the library board shall be made by council prior to the close of the calendar year so that the terms of office may begin January 1 of the following year.

(3) Interim vacancies shall be declared upon the resignation, death or change of residency out of the region of the City of Kingston by a member or when a member misses fifty percent (50%) of the meetings within one (1) fiscal year without sufficient reason.

(4) In the event the council fails to appoint a successor to any member at the end of the normal term of office, that member shall continue in office as a qualified member of the board until officially replaced. (2009 Code, § 2-202)

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<sup>1</sup>Charter reference

Advisory boards: art. IV, § 4.12.

State law reference:

*Tennessee Code Annotated*, title 10, chapter 3.



**2-203. Officers and duties.** (1) The board shall annually elect a chairman, a vice-chairman, a secretary and a treasurer from their number at the first regular meeting after the beginning of the fiscal year.

(2) The vice-chairman shall assume the duties of the chairman when the chairman is absent from the city, or unable to perform his duties for any reason.

(3) The secretary shall be responsible for keeping minutes of all meetings or business conducted by the board and these minutes shall be retained as a permanent record. The records shall be made available for inspection by any citizen in the presence of an officer of the board.

(4) The treasurer shall be responsible for ascertaining the validity of bills presented for payment, based upon budget appropriations and official board action, and presenting such valid bills to the city manager for payment from the library's account. The treasurer shall keep a financial account of income and approved disbursements and provide a quarterly record thereof to the board. The records of the treasurer shall be made available, if requested, for audit of the library's account. (2009 Code, § 2-203)

**2-204. Board duties.** (1) The board shall have jurisdiction over the affairs of the library. The board may, by agreement with the city, relinquish all personnel responsibilities to the city to be administered as if the library board was a department of the city administration. In such event, the board may interview applicants for the position of head librarian, assistant librarian and other employees, and submit a list of qualified applicants to the city manager. Such recommendations shall be considered but shall not be binding upon the city manager in the employment of personnel. All library personnel shall be employees of the city and managed and paid as other city employees.

(2) It shall be the responsibility of the board in cooperation with the head librarian, to establish board policy, consistent with the city charter and ordinances.

(3) The head librarian shall direct the internal affairs of the library subject to the direction of the board and of the city manager.

(4) It shall be the board's responsibility to approve payment to CETA or other temporary employees working under federal programs, as approved by the city manager. The board shall approve disbursement of funds which are donated for a designated purpose.

(5) The board shall submit a proposed detailed annual budget to the city council at least ninety (90) days before the end of the fiscal year.

(6) The board may solicit volunteers and funds from organizations, clubs and individuals for various educational and cultural programs. (2009 Code, § 2-204)

## CHAPTER 3

### BEAUTIFICATION COMMITTEE

#### SECTION

2-301. Membership, tenure, compensation and vacancies.

2-302. Responsibilities.

**2-301. Membership, tenure, compensation and vacancies.** There is hereby created a beautification committee which shall consist of nine (9) persons as follows:

- (1) Six (6) citizens without special qualifications;
- (2) One (1) person who is a member of the Kingston City Council;
- (3) One (1) person as a representative from the Parks and Recreation department; and

(4) One (1) from the codes enforcement office of the City of Kingston. The City Manager shall serve as a nonvoting ex officio member. The six (6) citizen members are to each serve for terms of four (4) years or until their successors are appointed, provided that the first committee shall be appointed with three (3) members to serve for two (2) years (with the term of office for the additional member added by the amendment to the chapter to run concurrent with the term of the two members originally appointed to serve for two (2) years and three (3) members to serve for four (4) years (with the term of office for the additional member added by this amendment to the chapter to run concurrent with the term of two (2) members originally appointed for four (4) years). The city council member shall serve for the term of his or her office as councilman. The members of the beautification committee shall serve without compensation. Citizens shall serve without compensation. Citizen vacancies occurring other than by expiration of the term shall be filled only for the unexpired term. All citizens will live in the city limits. (Ord. #17-12-12-1, Dec. 2017)

**2-302. Responsibilities.** It shall be the responsibility of the beautification committee to:

(1) Study, investigate, develop and suggest implementation of plans for improving the cleanliness and appearance of the City of Kingston by beautifying the streets, highways, alleys, drainage ditches, lots, yards and other similar places in the city;

(2) Make recommendations to aid in the prevention of the accumulation of debris in the streets, highways, alleys, drainage ditches, lots, yards and other similar places;

(3) Encourage the placing, planting and/or preservation of trees, flowers, plants, shrubbery and other objects of ornamentation in the city;

(4) Advise and recommend plans for the beautification of the public properties and other promote the public interest in general improvements of the

appearance of the city, and to carry out any task directed by the city council.  
(Ord. #17-12-12-1, December 2017)

**TITLE 3**

**MUNICIPAL COURT<sup>1</sup>**

**CHAPTER**

1. CITY JUDGE.
2. CITY COURT.

**CHAPTER 1**

**CITY JUDGE<sup>2</sup>**

**SECTION**

3-101. City judge.

**3-101. City judge.** The officer designated by the charter to handle judicial matters within the city shall preside over the city court and shall be known as the city judge. (2009 Code, § 3-101)

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<sup>1</sup>Charter reference  
City court: art. IX.

<sup>2</sup>Charter reference  
City judge: art. IX.

**CHAPTER 2**  
**CITY COURT<sup>1</sup>**

**SECTION**

- 3-201. Trial and disposition of cases.
- 3-202. Appeals.
- 3-203. Disturbance of proceedings.
- 3-204. Court costs.
- 3-205. Collection agency to collect unpaid fines, etc.

**3-201. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided that city court is in session or the city judge is reasonably available. The provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (2009 Code, § 3-201)

**3-202. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (2009 Code, § 3-203)

**3-203. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (2009 Code, § 3-206)

**3-204. Court costs.** (1) All fines, penalties and costs shall be imposed and recorded by the municipal court clerk on a municipal docket in open court.

(2) In cases wherein the defendant admits guilt and waives the opportunity to appear in open court and in cases heard and determined by the municipal judge, the judge shall tax as court costs the amount of seventy-five dollars (\$75.00) per case, plus any litigation tax authorized by the laws of the State of Tennessee as well as the cost of any capias issued in the case. (2009 Code, § 3-207)

**3-205. Collection agency to collect unpaid fines, etc.** The City Council is hereby authorized to enter into a collection agreement and the Mayor

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<sup>1</sup>Charter reference  
City court: art. IX.

of the City of Kingston is hereby authorized to execute said collection agreement with a collection agency chosen by City Council.

**TITLE 4**

**MUNICIPAL PERSONNEL**

**CHAPTER**

**1. PERSONNEL REGULATIONS.**

**CHAPTER 1**

**PERSONNEL REGULATIONS**

**SECTION**

4-101. Personnel rules and regulations.

**4-101. Personnel rules and regulations.**<sup>1</sup> The personnel rules and regulations for the City of Kingston are adopted herein as if set out verbatim.

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<sup>1</sup>The Personnel Rules and Regulations for the City of Kingston, as amended from time to time, are available in the office of the city clerk.

**TITLE 5**

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

**CHAPTER**

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

**CHAPTER 1**

**REAL PROPERTY TAXES**

**SECTION**

- 5-101. When due and payable.  
5-102. Delinquent taxes.

**5-101. When due and payable.** Taxes levied by the city against real property shall become due and payable in accordance with Article VIII of the charter. (2009 Code, § 5-101)

**5-102. Delinquent taxes.** All real property taxes which become delinquent shall be subject to such penalty and interest as is provided for in Article VIII of the charter. (2009 Code, § 5-102)

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<sup>1</sup>Charter references:  
Property taxes: art. VIII.



## CHAPTER 2

### SALES AND USE TAX

#### SECTION

5-201. Tax rate.

5-202. Effective date.

5-203. Collection by the state department of revenue.

5-204. Administration and collection costs.

5-205. Suits for recovery.

**5-201. Tax rate.** A sales and use tax is levied at the rate of 5/22 of the rate levied in the Retailer's Sales Tax Act (*Tennessee Code Annotated*, § 67-6-701 to 67-6-712), except as limited or modified by statute. (2009 Code, § 5-201)

**5-202. Effective date.** If a majority of those voting in the election required by *Tennessee Code Annotated*, § 67-6-706 vote for the increase in tax imposed by this chapter, collection of the increased tax levied by this ordinance shall begin on the first day of the month occurring thirty (30) or more days after the county election commission makes its official canvas of the election returns. (2009 Code, § 5-202)

**5-203. Collection by the State Department of Revenue.** The Department of Revenue of the State of Tennessee shall collect the additional tax imposed by this chapter concurrent with the collection of the state tax and the local tax now being collected for the City of Kingston, in accordance with rules and regulations promulgated by the department. (2009 Code, § 5-203)

**5-204. Administration and collection costs.** The mayor is hereby authorized to contract with the department of revenue for the collection of the additional tax imposed by this ordinance, and to provide in the contract that the Department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of the tax. (2009 Code, § 5-204)

**5-205. Suits for recovery.** In the event the tax is collected by the department of revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the state commissioner of revenue and the Mayor of the City of Kingston. (2009 Code, § 5-205)

## CHAPTER 3

### PRIVILEGE TAXES

#### SECTION

5-301. Tax levied.

5-302. License required.

**5-301. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (*Tennessee Code Annotated* title 67, chapter 4,) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the said act. (2009 Code, § 5-301)

**5-302. License required.** No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the city manager to each applicant therefor upon such applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (2009 Code, § 5-302)

## CHAPTER 4

WHOLESALE BEER TAX

## SECTION

5-401. To be collected.

**5-401. To be collected.** The city manager is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in *Tennessee Code Annotated*, title 57, chapter 6.<sup>1</sup> (2009 Code, § 5-401)

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<sup>1</sup>State law reference

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

Municipal code reference

Alcohol and beer regulations: title 8.

## CHAPTER 5

COMPETITIVE BIDDING<sup>1</sup>

## SECTION

5-501. Bidding required.

**5-501. Bidding required.** (1) Public advertised and competitive bidding pursuant to *Tennessee Code Annotated*, § 6-56-301 is required for all purchases by the city to which said statutes apply.

(2) Formal, sealed bids shall be obtained in all transactions involving the expenditure of fifty thousand dollars (\$50,000.00) or more, and any transaction involving the expenditure of fifty thousand dollars (\$50,000.00) or more shall be evidenced by a written contract submitted to and approved by the city council. (Ord. #22-12-13-01, Jan. 2023)

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<sup>1</sup>Charter reference

Competitive bidding regulations: art. V, § 5.07.

## CHAPTER 6

### HOTEL/MOTEL PRIVILEGE TAXES

#### SECTION

- 5-601. Definitions.
- 5-602. Permit required.
- 5-603. Fee.
- 5-604. Not transferable.
- 5-605. Duration.
- 5-606. Register required; availability for inspection.
- 5-607. Rooms to be numbered.
- 5-608. Privilege tax levied; use.
- 5-609. Payment of the tax.
- 5-610. Compensation to the hotel.
- 5-611. Interest and penalty for late payment.
- 5-612. Records requirement.

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

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

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

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

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

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

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days. (2009 Code, § 5-601)

**5-602. Permit required.** No person will conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, agent or attorney, any hotel in the city without having obtained a permit from the city administrator or his designee to do so. (2009 Code, § 5-602)

**5-603. Fee.** The fee for each hotel permit will be twenty-five dollars (\$25.00). (2009 Code, § 5-603)

**5-604. Not transferable.** No permit issued under the ordinance comprising this chapter shall be transferred or assigned. (2009 Code, § 5-604)

**5-605. Duration.** Hotel permits shall be issued annually and shall expire on the last day of December of each year. (2009 Code, § 5-605)

**5-606. Register required; availability for inspection.** Every person to whom a permit is issued under this chapter shall at all times keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms in his hotel. Such register shall be signed in every case by the persons renting a room or by someone under his direction, and after registration is made and the name of the guest is inscribed as herein provided, the manager shall write the number of the room which guest is to occupy, together with the time such room is rented, before such person is permitted to occupy such room. The register shall be open to inspection at all times to the city administrator or his designee. (2009 Code, § 5-606)

**5-607. Rooms to be numbered.** Each sleeping room and apartment in every hotel in the city shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number. (2009 Code, § 5-607)

**5-608. Privilege tax levied; use.** (1) Pursuant to the provisions of *Tennessee Code Annotated*, §§ 67-4-1401 to 67-4-1425, there is hereby levied a privilege of occupancy in any hotel of each transient. From and after the operative date of this chapter, the rate of the levy shall be five percent (5%) of the consideration charged by the operator. This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The fiscal officer shall be designed as the authorized collector to administer and enforce this chapter and these statutory provisions.

(2) The proceeds received from this tax shall be available for the city's general fund. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel. (2009 Code, § 5-608, modified)

**5-609. Payment of the tax.** Payment of the tax by the motel to the city shall be no later than the 20th day of each month for the preceding month. (2009 Code, § 5-609)

**5-610. Compensation to the hotel.** The hotel may deduct two percent (2%) from the amount paid to the city. (2009 Code, § 5-610)

**5-611. Interest and penalty for late payment.** The hotel operator is responsible for paying interest on delinquent taxes, eight percent (8%) per annum, plus a penalty of one percent (1%) per month. (2009 Code, § 5-611)

**5-612. Records requirement.** The hotel operator must keep records for three (3) years, with the right of inspection by the city. (2009 Code, § 5-612)

**TITLE 6****LAW ENFORCEMENT**<sup>1</sup>**CHAPTER**

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

**CHAPTER 1****POLICE DEPARTMENT****SECTION**

- 6-101. Police officers subject to chief's orders.  
6-102. Police officers to preserve law and order, etc.  
6-103. Police department records.  
6-104. Police officers to wear uniforms and be armed.

**6-101. Police officers subject to chief's orders.** All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (2009 Code, § 6-101)

**6-102. Police officers to preserve law and order, etc.** Police officers shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (2009 Code, § 6-102)

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

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

The police chief shall be responsible for insuring that the police department complies with this section. (2009 Code, §6-103)

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<sup>1</sup>Municipal code reference

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



**6-104. Police officers to wear uniforms and be armed.** All police officers shall wear such uniform and badge as the city manager shall authorize, and shall carry a service pistol at all times while on duty unless otherwise expressly directed by the chief. (2009 Code, § 6-104)

## CHAPTER 2

### ARREST PROCEDURES

#### SECTION

6-201. When police officers to make arrests.

6-202. Disposition of persons arrested.

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

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (2009 Code, § 6-201)

**6-202. Disposition of persons arrested.** A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (2009 Code, § 6-202, modified)

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<sup>1</sup>Municipal code reference

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

## CHAPTER 3

### CITATIONS, WARRANTS, AND SUMMONSES

#### SECTION

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

6-302. Summonses in lieu of arrest.

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

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

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (2009 Code, § 6-301)

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

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<sup>1</sup>Municipal code reference

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

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

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

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

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

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

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (2009 Code, § 6-302)

## TITLE 7

### FIRE PROTECTION AND FIREWORKS

#### CHAPTER

1. FIRE CODE.
2. FIRE SERVICE OUTSIDE CITY LIMITS.

#### CHAPTER 1

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

#### SECTION

- 7-101. Fire code adopted.
- 7-102. Enforcement.
- 7-103. Gasoline trucks.
- 7-104. Variances.
- 7-105. Available in city clerk's office.
- 7-106. Violations and penalty.

**7-101. Fire code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to firefighters and emergency responders during emergency operations, the *International Fire Code*,<sup>2</sup> 2018 edition, and *NFPA 101 Life Safety Code*,<sup>3</sup> 2018 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the fire code. Said fire code is shall be controlling within the corporate limits.

**7-102. Enforcement.** The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal.

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<sup>1</sup>Municipal code reference

Building, utility and residential codes: title 12.

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

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

**7-103. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time, except for the purpose of and while actually engaged in the expeditious delivery of gasoline.

**7-104. Variances.** The chief of the fire department may recommend to the city council variances from the provisions of the fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code; provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the city council.

**7-105. Available in city clerk's office.** Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public. (modified)

**7-106. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the fire code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 2

### FIRE SERVICE OUTSIDE CITY LIMITS

#### SECTION

7-201. Fire service outside city limits.

**7-201. Fire service outside city limits.** The city council shall have full power and authority to authorize the use of the city's firefighting equipment and personnel outside the corporate limits to suppress and extinguish fires, subject to such conditions and limitations of such action as the city council may impose pursuant to the authority of:

(1) *Tennessee Code Annotated*, §§ 58-8-101, *et seq.*, the Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, which authorizes municipalities to respond to requests from other governmental entities affected by situations in which its resources are inadequate to handle. The act provides procedures and requirements for providing assistance. No separate mutual aid agreement is required, unless assistance is provided to entities in other states, but a municipality may, by resolution, continue existing agreements or establish separate agreements to provide assistance. Assistance to entities in other states is still provided pursuant to *Tennessee Code Annotated*, §§ 12-9-101, *et seq.* "Assistance" is defined in the act as "the provision of personnel, equipment, facilities, services, supplies, and other resources to assist in firefighting, law enforcement, the provision of public works services, the provision of emergency medical care, the provision of civil defense services, or any other emergency assistance one (1) governmental entity is able to provide to another in response to a request for assistance in a municipal, county, state, or federal state of emergency."

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

(3) *Tennessee Code Annotated*, § 6-54-601, which authorizes municipalities to:

(a) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with firefighting assistance.

(b) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance.

(c) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area

without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)



**TITLE 8****ALCOHOLIC BEVERAGES<sup>1</sup>****CHAPTER**

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

**CHAPTER 1****INTOXICATING LIQUORS<sup>2</sup>****SECTION**

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before city council; to give information.
- 8-105. Action on application.
- 8-106. Renewal of certificate.
- 8-107. Applicants for certificate who have criminal record.
- 8-108. Number of retail licenses to be held by retailer.
- 8-109. Where establishments may be located.
- 8-110. Retail stores to be on ground floor; entrances.
- 8-111. Limitation on number of retailers.
- 8-112. Sales for consumption on-premises.
- 8-113. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-114. Consumption of alcoholic beverages on-premises.
- 8-115. Privilege tax on the sale of alcoholic beverages for consumption on the premises.
- 8-116. Annual privilege tax to be paid to the city clerk.
- 8-117. Concurrent sales of liquor by the drink and beer.
- 8-118. Advertisement of alcoholic beverages.
- 8-119. Violations and penalty.

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<sup>1</sup>Municipal code references

Minors in beer places, public drunkenness, etc.: title 11, chapter 2.

<sup>2</sup>State law reference

Employee and server permits: *Tennessee Code Annotated*, § 57-3-70, *et seq.*

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

**8-102. Application for certificate.**<sup>1</sup> Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-208 shall be signed by the mayor, or by any city council member, a request in writing shall be filed with the city clerk, giving the following information:

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

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

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

**8-104. Applicant to appear before city council; duty to give information.** An applicant for a certificate of good moral character may be required to appear in person before the city council for such reasonable examination as may be desired by the board. (modified)

**8-105. Action on application.** Every application for a certificate of good moral character shall be referred to the chief of police for investigation and

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<sup>1</sup>State law reference

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

<sup>2</sup>State law reference

*Tennessee Code Annotated*, § 57-3-208 requires the applicant to submit a criminal history background report.

to the city attorney for review, each of whom shall submit his findings to the city council within thirty (30) days of the date each application was filed.

The city council may issue a certificate of good moral character to any applicant, which shall be signed by the mayor or by a majority of the city council. (modified)

**8-106. Renewal of certificate.**<sup>1</sup> A certificate issued under this chapter remains valid unless there is a change of ownership or location. If either of these events occur, a new certificate must be obtained.

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

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

**8-109. Where establishments may be located.** It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose.

**8-110. Retail stores to be on ground floor; entrances.** No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any

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<sup>1</sup>State law reference  
*Tennessee Code Annotated*, § 57-3-208.

<sup>2</sup>State law reference  
*Tennessee Code Annotated*, § 57-3-406.

salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.<sup>1</sup>

**8-111. Limitation on number of retailers.**<sup>2</sup> No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued under this chapter.

**8-112. Sales for consumption on-premises.** No alcoholic beverages shall be sold for consumption on the premises of a retail seller.

**8-113. Radios, amusement devices and seating facilities prohibited in retail establishments.** No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

**8-114. Consumption of alcoholic beverages on-premises.** *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Kingston, Tennessee. It is the intent of the City Council that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in the City of Kingston, the same as if said code sections were copied herein verbatim.

**8-115. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, title 57, chapter 4, section 301,) for the City of Kingston to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Kingston of alcoholic beverages for consumption on the premises where sold.

**8-116. Annual privilege tax to be paid to the city clerk.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the

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<sup>1</sup>State law reference

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

<sup>2</sup>State law reference

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

City of Kingston shall remit annually to the city clerk the appropriate tax described in § 8-114. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (modified)

**8-117. Concurrent sales of liquor by the drink and beer.** Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Kingston, pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall, notwithstanding § 8-216 of the ordinances of the City of Kingston, qualify to receive a beer permit from the city upon compliance of all city beer permit requirements.

**8-118. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission.

**8-120. Violations and penalty.** Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

## CHAPTER 2

### BEER

#### SECTION

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

**8-201. Beer board established.** There is hereby established a beer board to be composed the members of city council.

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

**8-203. Record of beer board proceedings to be kept.** The city clerk shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; names of the board members present and absent; names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (modified)

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

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

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

**8-207. Permit required for engaging in beer business.**<sup>2</sup> (1) It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board.

(2) After the effective date of this section, each applicant for a beer permit must be at least twenty-one (21) years of age.

(3) The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Kingston.

(4) Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. Licensed retail package stores located in the city are exempt from the provisions of this chapter and are not required to obtain a beer permit.<sup>3</sup>

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

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

<sup>3</sup>State law reference  
*Tennessee Code Annotated*, § 57-3-404(e)(2)

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

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

**8-210. Number and classification of beer permits.** The number of beer permits permitted in the City of Kingston, Tennessee, and the classification thereof are as follows:

(1) **Restaurants.** There shall be no limitation on the number of beer permits issued to restaurants. To qualify for a restaurant permit, an establishment must, in addition to meeting the other regulations and restrictions of this chapter:

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<sup>1</sup>State law reference

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

<sup>2</sup>State law reference

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



- (a) Be primarily a restaurant or an eating place; and
- (b) Be able to provide indoor seating for a minimum of thirty (30) people, including children, in booths and at tables, in addition to any other seating it may have.

In addition, the monthly beer sales of any establishment which holds a restaurant license shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which, for two (2) consecutive months, or for any three (3) months in any calendar year, has beer sales exceeding fifty percent (50%) of its gross sales shall have its beer permit revoked.

(2) Grocery (food) stores and convenience stores. There shall be no limitation on the number of beer permits issued to grocery (food) stores and convenience stores. To qualify for a grocery (food) store or convenience store off-premises permit, an establishment must, in addition to meeting the other regulations and restrictions of this chapter:

- (a) Be a grocery (food) store or a convenience-type market;
- (b) In either case, be primarily engaged in the sale of grocery, personal, home care and cleaning articles, but may also sell gasoline; and
- (c) Commence operations within one year of the issuance of the permit.

In addition, the monthly beer sales of any establishment which holds a grocery (food) store or convenience store off-premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any establishment which, for two (2) consecutive months, or for any three (3) months in any calendar year, has beer sales exceeding twenty-five percent (25%) of its gross sales shall have its beer permit revoked.

(3) Taverns. There shall be no more than two (2) beer permits issued to taverns. Beer may be sold in this establishment, whether or not meals are served, for consumption on the premises.

(4) Package beer stores (off premises). There shall be no limitation on the number of beer permits issued to package beer stores. These are establishments where beer is sold to be consumed off the premises. Beer shall not be consumed on the premises of these establishments.

(5) Wholesaler/distribution (off premises). Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer shall not be sold or consumed on the wholesaler's premises.

(6) Caterers. There shall be no limitation on the number of beer permits issued to caterers. To qualify for a caterer permit, in addition to meeting the other regulations and restrictions of this chapter, the following shall apply:

- (a) The permittee operates a permanent catering hall on an exclusive basis;
  - (b) The permittee has a complete and adequate kitchen facility;
- and

(c) The permittee is licensed as a caterer by the Tennessee Department of Health.

The permit shall authorize the caterer to sell beer on the premises of the caterer and at such other sites as the caterer has given advanced notice to the Kingston Beer Board through the City Manager for the City of Kingston, Tennessee. With such notice, a special permit will be issued for purposes of serving beer at the off-premises site. The permit shall not authorize and the caterer shall not sell beer at a site within two hundred fifty feet (250') of a building from which there must be a minimum distance as provided elsewhere herein. In all cases, beer may be sold for consumption only at the permanent catering hall of the caterer or at the site for which the caterer has given advanced notice to the Kingston Beer Board.

(7) Golf course. There shall be no limitation on the number of beer permits issued to golf courses. Beer may be sold for consumption on the premises only with the premises defined as any clubhouse, pro shop, restaurant, or the playing course itself. No consumption shall be permitted in or on the parking lot.

Each permit hereunder issued shall specify the classification of permit along with the kind of establishment as herein set forth. No beer sales other than the class designated shall be permitted except as stated herein, i.e., at establishments with permits allowing on-premises consumption, it will be legal for beer to be consumed on the premises only. No beer shall be sold for off-premises consumption by these establishments. Likewise, no on-premises consumption will be legal where the establishment has been granted an off-premises permit. If the character of the establishment changes from the classification originally issued, the permittee will be required to obtain a new permit to conform to the type of establishment being operated by the permittee. All beer permits now issued and outstanding will be classified and placed in its appropriate category and the holders of said beer permits shall be so notified, along with a copy of this chapter. (2009 Code, § 8-309, modified)

**8-211. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within two hundred fifty feet (250') of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering

if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (modified)

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

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.<sup>1</sup>

(2) Make or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday.<sup>2</sup>

(3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.<sup>3</sup>

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

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

(6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.

**18-213. Curbside sale of beer.** Pursuant to *Tennessee Code Annotated*, § 57-5-103, the authorization of beer permit holders to sell beer online for curbside pickup at the permit holder's location requires purchased beer to be delivered to the customer's vehicle and the vehicle to be located within a paved parking area adjacent to the place of business. Beer sold through an online curbside pickup service shall be required to be pulled from the inventory located at the permitted location of the retailer providing the service. Any employee bringing beer to a vehicle for online curbside pickup must confirm the individual receiving the beer is at least twenty-one (21) years of age.

**8-214. Revocation or suspension of beer permits.** The beer board shall have the power to revoke or suspend any beer permit issued under the

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 1-3-113.

<sup>2</sup>State law reference

*Tennessee Code Annotated*, § 57-5-106(a), for cities with liquor by the drink, the Alcoholic Beverage Commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under *Tennessee Compilation Rules and Regulations* § 0100-01-.03(2).

<sup>3</sup>State law reference

*Tennessee Code Annotated*, § 57-5-106(a).

provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

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

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

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

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

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before

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<sup>1</sup>State law reference

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

the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

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

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

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

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<sup>1</sup>State law reference

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

## CHAPTER 3

### WINE IN RETAIL FOOD STORES

#### SECTION

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

8-302. Application for certificate.

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

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

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

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

## TITLE 9

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

#### CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. CABLE TELEVISION.
3. ADULT-ORIENTED ESTABLISHMENTS.

#### CHAPTER 1

### PEDDLERS, SOLICITORS, ETC.<sup>2</sup>

#### SECTION

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

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

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the city, who has no permanent regular place of business and

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise regulations: title 11.

Privilege taxes: title 5.

Zoning: title 14.

<sup>2</sup>Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-301.

who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

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

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization, unless the organization meets one (1) of the following conditions:

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

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

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

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



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

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

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

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

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<sup>1</sup>State law references

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise.

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

**9-106. Restrictions on transient vendors.** A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor,

administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

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

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

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

(b) Any violation of this chapter.

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

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

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

## CHAPTER 2

### CABLE TELEVISION

#### SECTION

9-201. To be furnished under franchise.

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

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<sup>1</sup>Complete details relating to the cable television franchise agreement may be viewed in the office of the city clerk.

## CHAPTER 3

### ADULT-ORIENTED ESTABLISHMENTS

#### SECTION

- 9-301. Purpose.
- 9-302. Definitions.
- 9-303. Location of adult-oriented establishment.
- 9-304. License required.
- 9-305. Application for license.
- 9-306. Standards for issuance of license.
- 9-307. Permit required.
- 9-308. Application for permit.
- 9-309. Standards for issuance of permit.
- 9-310. Fees.
- 9-311. Display of license or permit.
- 9-312. Renewal of license or permit.
- 9-313. Revocation of license or permit.
- 9-314. Hours of operation.
- 9-315. Responsibility of the operator.
- 9-316. Prohibitions and unlawful sexual acts.
- 9-317. Violations and penalty.

**9-301. Purpose.** It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. It is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. (2009 Code, § 9-601)

**9-302. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context.

(1) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and

in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(2) "Adult cabaret" is defined to mean an establishment which features, as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

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

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.

(5) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

(6) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments" or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes,

without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(7) "City council" means the City Council of the City of Kingston, Tennessee.

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

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

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

(11) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks; and

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

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

(12) "Specified sexual activities" means:

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

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

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (2009 Code, § 9-602)

**9-303. Location of adult-oriented establishment.** An adult-oriented establishment must be located within the C-1, C-2, or C-3 zones as appears on the official zoning map of the City of Kingston, but in no event will an adult-oriented establishment be allowed within seven hundred fifty feet (750') of any R-1 or R-2 Residential District or C-4, Controlled Commercial District, any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from where the adult-oriented establishment is located to the nearest point on the property line of the hospital, school, church or other place of public gathering.

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

(1) The shape, size and location of the lot on which the adult-oriented establishment is to be operated under the license;

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

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

(4) The identification of every parcel of land within seven hundred fifty feet (750') of the lot upon which the adult-oriented establishment is to be operated indicating ownership thereof and the location of any structures thereon and the use being made of every such parcel. (2009 Code, § 9-603)

**9-304. License required.** (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Kingston without first obtaining a license to operate issued by the City of Kingston.

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

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

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

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

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (2009 Code, § 9-604)

**9-305. Application for license.** (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the City of Kingston. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city clerk and to the applicant.

(2) The application for a license shall be upon a form provided by the police chief. An applicant for a license, including any partner or limited partner



of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including, but not limited to, all holders of any interest in land of members of any limited liability company), shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past three (3) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including, but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time each applicant has been a resident of the City of Kingston, or its environs, immediately preceding the date of the application.
- (m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity..
- (n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

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

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

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

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the city council at which time the applicant may present evidence as to why his/her license should not be denied. The city council shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the city council and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Roane County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief. (2009 Code, § 9-606)

**9-306. Standards for issuance of license.** (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-305 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-305 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

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

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

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

(2) No license shall be issued unless the Kingston Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application. (2009 Code, § 9-606)

**9-307. Permit required.** In addition to the license requirements previously set forth for owners and operators of adult-oriented establishments,

no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief. (2009 Code, § 9-607)

**9-308. Application for permit.** (1) Any person desiring to secure a permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city clerk and to the applicant.

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

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes, and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.
- (i) The length of time the applicant has been a resident of the City of Kingston, or its environs, immediately preceding the date of the application.
- (j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

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

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

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief. (2009 Code, § 9-608)

**9-309. Standards for issuance of permit.** (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

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

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

(2) No permit shall be issued until the Kingston Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application. (2009 Code, § 9-609)

**9-310. Fees.** (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (2009 Code, § 9-610)

**9-311. Display of license or permit.** (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Kingston Police Department, or any person designated by the city council. (2009 Code, § 9-611)

**9-312. Renewal of license or permit.** (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city clerk and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the city council.

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

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

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city clerk and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the city council.

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

(6) If the Kingston Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief. (2009 Code, § 9-612)

**9-313. Revocation of license or permit.** (1) The police chief shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

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

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

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

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

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

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

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately

revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (2009 Code, § 9-613)

**9-314. Hours of operation.** (1) No adult-oriented establishment shall be open between the hours of 10:00 P.M. and 10:00 A.M. Monday through Saturday, nor shall such adult-oriented establishment be allowed to open on any Sunday, Good Friday or any state or federally recognized holiday.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Kingston Police Department, the Roane County Sheriff's Department, or such other persons as the city council may designate. (2009 Code, § 9-614)

**9-315. Responsibility of the operator.** (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, Social Security number, date of employment and termination, and duties of each employee and such other information as may be required by the city council. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

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

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

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

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or



charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Kingston Police Department at all reasonable times.

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

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

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

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

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

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

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (2009 Code, § 9-615)

**9-316. Prohibitions and unlawful sexual acts.** (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

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

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (2009 Code, § 9-617)

**9-317. Violations and penalty.** (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (2009 Code, § 9-617)

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

1. IN GENERAL.
2. DOGS.

**CHAPTER 1****IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Cruel treatment prohibited.
- 10-108. Violations and penalty.

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

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

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

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

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

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

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

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

**10-107. Cruel treatment prohibited.** It shall be unlawful for any person to beat or otherwise abuse or injure any animal or fowl. (2009 Code, § 10-106)

**10-108. Violations and penalty.** Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

## CHAPTER 2

### DOGS

#### SECTION

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

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

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

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

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

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

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<sup>1</sup>State law reference

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

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

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

(b) "Vicious dog" means:

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

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

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

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

(v) Any pit bull terrier, which shall be defined as any American pit bull terrier or Staffordshire bull terrier or American staffordshire terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American pit bull terrier or Staffordshire bull terrier or American Staffordshire terrier as to be identifiable as partially of the breed of American pit bull terrier or Staffordshire bull terrier or Staffordshire bull terrier or American Staffordshire bull terrier.

(c) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot (1'). All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

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

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

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

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

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

(7) **Penalties.** Whoever violates any provision of this section shall be guilty of a gross misdemeanor and may be punished by a fine of not less than ten dollars (\$10.00) and not more than fifty dollars (\$50.00). The conviction of any owner of three (3) or more offenses under this chapter for any dog during one (1) calendar year shall require a confiscation and forfeiture of that animal based on the danger and incorrigibility of owner and animal. Failure to abide by a lawful order of forfeiture is punishable by contempt.

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

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

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

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

**10-208. Destruction of vicious or infected dogs running at large.** When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any police officer or other properly designated officer.<sup>2</sup>

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

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<sup>1</sup>State law reference

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

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

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

<sup>2</sup>State law reference

*Tennessee Code Annotated*, §§ 44-17-301, *et seq.*



## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
4. LITTERING.
5. OFFENSES AGAINST PUBLIC HEALTH, SAFETY OR WELFARE.

#### CHAPTER 1

#### ALCOHOL<sup>2</sup>

#### SECTION

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

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

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

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

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<sup>1</sup>Municipal code references

Animal control: title 10.

Residential and utilities: title 12.

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

Traffic offenses: title 15.

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

## CHAPTER 2

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-201. Anti-noise regulations.

11-202. Violations and penalty.

**11-201. Anti-noise regulations.** Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

(c) **Yelling, shouting, etc.** Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

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

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

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

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

(a) City vehicles. Any vehicle of the city while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city council. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit.

**11-202. Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

## CHAPTER 3

### TRESPASSING AND INTERFERENCE WITH TRAFFIC

#### SECTION

11-301. Trespassing.

11-302. Interference with traffic.

11-303. Violations and penalty.

**11-301. Trespassing.** (1) On premises open to the public.

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

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

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

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

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

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

**11-302. Interference with traffic.** It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

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<sup>1</sup>Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

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

## CHAPTER 4

### LITTERING

#### SECTION

- 11-401. Definitions.
- 11-402. Littering offenses.
- 11-403. Scope of regulation.
- 11-404. Violations and penalty.

**11-401. Definitions.** As used in this chapter, unless the context otherwise requires.

(1) "Commercial purpose" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity.

(2) "Garbage" means putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(3) "Litter" means garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in *Tennessee Code Annotated*, § 39-17-1503(9), and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.

(4) "Refuse" means all putrescible and nonputrescible solid waste.

(5) "Rubbish" means nonputrescible solid waste consisting of both combustible and non-combustible waste.

**11-402. Littering offenses.** (1) A person commits the civil offense of littering who:

(a) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;

(b) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or

(c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.

(2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.

(3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the

city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering.

**11-403. Scope of regulation.** The regulation of litter in this chapter is limited to amounts of litter less than or equal to five (5) pounds in weight or seven and one-half (7-1/2) cubic feet in volume.

**11-404. Violations and penalty.** Littering is a civil offense punishable by a penalty under the general penalty provision of this code.



**CHAPTER 5****OFFENSES AGAINST THE PUBLIC HEALTH,  
SAFETY OR WELFARE****SECTION**

- 11-501. Air rifles, etc.
- 11-502. Throwing missiles.
- 11-503. Discharge of firearms.
- 11-504. Abandoned refrigerators.
- 11-505. Caves, wells, cisterns, etc.
- 11-506. Curfew for minors.

**11-501. Air rifles, etc.** It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (2009 Code, § 11-601)

**11-502. Throwing missiles.** It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (2009 Code, § 11-602)

**11-503. Discharge of firearms.** (1) It shall be unlawful for any person to discharge firearms within the corporate limits of the city. Notwithstanding any other provisions in this section to the contrary, nothing in this section is intended to prohibit the discharge or firing of firearms:

(a) When the discharge of firearms is made by a person authorized under the laws of the State of Tennessee and the United States to discharge firearms in connection with duties that person is authorized by those laws to perform:

(b) When the discharge of firearms is made by a person in the activity of hunting, but only to the extent that hunting is conducted strictly in accordance with the laws, rules, and regulations of the State of Tennessee governing the right of citizens to hunt within the municipal limits of the city.

(c) By anyone within a legally established shooting range, shooting gallery, firearm training facility or a parcel of land exceeding five (5) or more acres where precautions have been taken to ensure the protection of human life and property.

(2) The violation of this section is a civil offense, punishable under the general penalty of this municipal code of ordinances. (2009 Code, § 11-603)

**11-504. Abandoned refrigerators, etc.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door or otherwise sealing the door in such a manner that it cannot be opened by any child. (2009 Code, § 11-605)

**11-505. Caves, wells, cisterns, etc.** It shall be unlawful for any person to permit to be maintained on property owned or occupied by him/her any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (2009 Code, § 11-606)

**11-506. Curfew for minors.** It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 12:00 midnight unless accompanied by a parent, guardian or other adult person having lawful custody of such minor (2009 Code, § 11-608)

## TITLE 12

### BUILDING, UTILITY, ETC. CODES

#### CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. FUEL GAS CODE.
4. RESIDENTIAL CODE.
5. ENERGY CONSERVATION CODE.
6. MECHANICAL CODE.
7. PROPERTY MAINTENANCE CODE.
8. EXISTING BUILDING CODE.

#### CHAPTER 1

#### BUILDING CODE<sup>1</sup>

#### SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in city clerk's office.
- 12-104. Violations and penalty.

**12-101. Building code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure, or any appurtenance connected or attached to any building or structure, the *International Building Code*,<sup>2</sup> 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the building code.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

**12-102. Modifications.** The following sections are hereby revised to read as follows:

**Definitions.** Whenever the words "Building Official" are used in the building code, they shall refer to the person designated by the city council to enforce the provisions of the building code.

**12-103. Available in city clerk's office.** Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the building code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

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

## CHAPTER 2

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

#### SECTION

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

**12-201. Plumbing code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the *International Plumbing Code*,<sup>2</sup> 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the plumbing code.

**12-202. Modifications.** The following sections are hereby revised to read as follows:

**Definitions.** Whenever the words "Building Official" are used in the plumbing code, they shall refer to the person designated by the city council to enforce the provisions of the plumbing code.

**12-203. Available in city clerk's office.** Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

**12-204. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein

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<sup>1</sup>Municipal code references

Cross-connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

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

## CHAPTER 3

### FUEL GAS CODE

#### SECTION

- 12-301. Title and definitions.
- 12-302. Purpose and scope.
- 12-303. Available in the city clerk's office.
- 12-304. Use of existing piping and appliances.
- 12-305. Bond and license.
- 12-306. Gas inspector and assistants.
- 12-307. Powers and duties of inspector.
- 12-308. Permits.
- 12-309. Inspections.
- 12-310. Certificates.
- 12-311. Fees.
- 12-312. Nonliability.
- 12-313. Violations and penalty.

**12-301. Title and definitions.** This chapter and the code herein adopted by reference shall be known as the gas code of the city. The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Building official" means the person designated by the city council to enforce the provisions of the gas code.

(2) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers.

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

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

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

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

**12-302. Purpose and scope.** The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the *International Fuel Gas*

*Code*,<sup>1</sup> 2018 edition, is hereby adopted and incorporated by reference and made a part of this chapter as if fully set forth herein, and shall be referred to as the gas code.

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

**12-304. Use of existing piping and appliances.** Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code.

**12-305. Bond and license.** (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the mayor a good and sufficient bond in the penal sum of ten thousand dollars (\$10,000.00), with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the city clerk, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

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

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

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



conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees.

**12-306. Gas inspector and assistants.** To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the city council.

**12-307. Powers and duties of inspector.** (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

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

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

**12-308. Permits.** (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the mayor; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

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

(3) Except when work in a public street or other public way is involved, the gas company shall not be required to obtain permits to set meters, or to

extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system.

**12-309. Inspections.** (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

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

**12-310. Certificates.** The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service.

**12-311. Fees.** There shall be charged a fee of three dollars (\$3.00) for each gas permit issued. This fee shall include the costs of one (1) inspection to be made by the gas inspector. Should additional inspections be necessary, there shall be an added charge of one dollar (\$1.00) for each such inspection.

**12-312. Nonliability.** This chapter shall not be construed as imposing upon the municipality any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the municipality, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector.

**12-313. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable under the general penalty provision of this code, or the license of such person may be revoked, or both fine and revocation of license may be

imposed. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 4

**RESIDENTIAL CODE****SECTION**

- 12-401. Residential code adopted.  
12-402. Available in city clerk's office.  
12-403. Violations and penalty.

**12-401. Residential code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the *International Residential Code*,<sup>1</sup> 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the residential code.

**12-402. Available in city clerk's office.** Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the residential code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

**12-403. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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

## CHAPTER 5

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

#### SECTION

- 12-501. Energy code adopted.
- 12-502. Modifications.
- 12-503. Available in city clerk's office.
- 12-504. Violations and penalty.

**12-501. Energy code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage, and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the *International Energy Conservation Code*,<sup>2</sup> 2018 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the energy code.

**12-502. Modifications.** The following sections are hereby revised to read as follows:

**Definitions.** Whenever the words "Building Official" are used in the building code, they shall refer to the person designated by the city council to enforce the provisions of the energy code. (modified)

**12-503. Available in city clerk's office.** Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the energy code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

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<sup>1</sup>Municipal code references

Fire protection: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

Ordinances 18-9-11-1 and 8-9-11-2 are adopted by reference.

**12-504. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 6

### MECHANICAL CODE<sup>1</sup>

#### SECTION

- 12-601. Mechanical code adopted.
- 12-602. Modifications.
- 12-603. Available in city clerk's office.
- 12-604. Violations and penalty.

**12-601. Mechanical code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the *International Mechanical Code*,<sup>2</sup> 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim and is hereinafter referred to as the mechanical code.

**12-602. Modifications.** The following sections are hereby revised to read as follows:

**Definitions.** Whenever the words "Building Official" are used in the mechanical code, they shall refer to the person designated by the city council to enforce the provisions of the mechanical code.

**12-603. Available in city clerk's office.** Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

**12-604. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted. The violation of any section of this chapter shall be punishable by a

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<sup>1</sup>Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

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



## CHAPTER 7

**PROPERTY MAINTENANCE CODE****SECTION**

- 12-701. Property maintenance code adopted.  
12-702. Modifications.  
12-703. Available in city clerk's office.  
12-704. Violations and penalty.

**12-701. Property maintenance code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said *International Property Maintenance Code*,<sup>1</sup> 2018 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the property maintenance code.

**12-702. Modifications.** The following sections are hereby revised to read as follows:

**Definitions.** Whenever the words "Building Official" are used in the property maintenance code, they shall refer to the person designated by the city council to enforce the provisions of the property maintenance code.

**12-703. Available in city clerk's office.** Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the property maintenance code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

**12-704. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted by reference and modified. The violation of any section of this

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

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

## CHAPTER 8

### EXISTING BUILDING CODE

#### SECTION

- 12-801. Existing building code adopted.
- 12-802. Modifications.
- 12-803. Available in city clerk's office.
- 12-804. Violations and penalty.

**12-801. Existing building code adopted.** Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the *International Existing Building Code*,<sup>1</sup> 2018 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the existing building code.

**12-802. Modifications.** The following sections are hereby revised to read as follows:

**Definitions.** Whenever the words "Building Official" are used in the existing building code, they shall refer to the person designated by the city council to enforce the provisions of the existing building code.

**12-803. Available in city clerk's office.** Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the existing building code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

**12-804. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the existing building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. JUNKED MOTOR VEHICLES.
5. NUISANCES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

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

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

**13-102. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

**13-103. Weeds and grass.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Parking lot paving requirements: title 16, chapter 3.

Wastewater treatment: title 18, chapter 2.

order by the city council to cut such vegetation when it has reached a height of over one foot (1').

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

(2) Designation of public officer or department. The chief of police shall designate an appropriate department or person to enforce the provisions of this section.

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

(a) A brief statement that the owner is in violation of § 13-104 of the Kingston Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

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

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice, (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the city council to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed

against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in the county, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the city council to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property, except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of appeals. The appeal shall be filed with the city clerk 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 appeals under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other

applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city clerk and dispose of such animal in such manner as the city clerk shall direct.

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

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

## CHAPTER 2

### SLUM CLEARANCE<sup>1</sup>

#### SECTION

- 13-201. Findings of city council.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.
- 13-215. Appeals--board of appeals.

**13-201. Findings of city council.** Pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*, the city council finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

**13-202. Definitions.** (1) "City" means the City of Kingston, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

(3) "Governing body" means the city council charged with governing the city.

(4) "Owner" means the holder of title in fee simple and every mortgagee of record.

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, title 13, chapter 21.



(5) "Parties in interest" means all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" means any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

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

**13-204. Initiation of proceedings; hearings.** Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion), that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

**13-205. Orders to owners of unfit structures.** If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state, in writing, his finding of fact in support of such

determination, and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

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

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

**13-208. Lien for expenses; sale of salvaged materials; other powers not limited.** The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as 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 as set forth in *Tennessee Code Annotated*, §§ 67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner

through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Roane County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Kingston to define and declare nuisances, and to cause their removal or abatement, by summary proceedings or otherwise.

**13-209. Basis for a finding of unfitness.** The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Kingston. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness.

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

**13-211. Enjoining enforcement of orders.** Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final

disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

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

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

(1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination; provided, that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

**13-213. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

**13-214. Structures unfit for human habitation deemed unlawful.** It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city, structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

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

**13-215. Appeals—board of appeals.** The owner of record who is aggrieved by the determination and order of the public officer may appeal the

determination and order to the board of appeals. The appeal shall be filed with the city clerk within ten (10) days following the receipt of the notice issued pursuant to § 13-104(3). The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

## CHAPTER 3

### JUNKYARDS<sup>1,2</sup>

#### SECTION

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

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

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

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

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

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

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<sup>1</sup>Municipal code reference

Refuse and trash disposal: title 17.

<sup>2</sup>State law reference

*Tennessee Code Annotated*, § 7-51-701.

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

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

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

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

(3) Architectural barriers. The utilization of:

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

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

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

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

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

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

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

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

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

**13-305. Maintenance of screens.** The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to ensure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk

within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city.

If not replaced within sixty (60) days, the city may replace said screening and require payment upon demand.

**13-306. Utilization of highway right-of-way.** The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition.

**13-307. Nonconforming junkyards.** Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code, shall be considered as "nonconforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the nonconforming status:

- (1) The junkyard must continue to be lawfully maintained.
- (2) There must be existing property rights in the junk or junkyard.
- (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason.

If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.

- (5) The junkyard may not be extended or enlarged.

**13-308. Permits and fees.** It shall be unlawful for any junkyard located within the city to operate without a "junkyard control permit" issued by the city.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's fiscal year begins on July 1 and ends on June 30 the year next following.

(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the city.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued.

**13-309. Violations and penalty.** Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.



## CHAPTER 4

### JUNKED MOTOR VEHICLES

#### SECTION

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Board of appeals.
- 13-406. Violations and penalty.

**13-401. Definitions.** For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings.

(1) (a) "Junk vehicle" means a vehicle of any age that is damaged or defective, including, but not limited to, any one (1) or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(b) "Vehicle" means any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including, but not limited to, automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

(2) "Person" means any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(3) "Private property" means all property that is not public property, regardless of how the property is zoned or used.

(4) "Traveled portion of any public street or highway" means the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

**13-402. Violations a civil offense.**<sup>1</sup> It shall be unlawful and a civil offense for any person:

(1) To park and/or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, or maintain on private property a junk vehicle.

**13-403. Exceptions.** (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 55-5-122.

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city.

**13-404. Enforcement.** Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building official is authorized to issue ordinance summons for violations of this chapter on private property. The building official shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation, the building official finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building official may:

(1) Request the city judge to issue a summons; or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, §§ 7-63-101, *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. (modified)

**13-405. Board of appeals.** The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of appeals. The appeal shall be filed with the city clerk within ten (10) days following the receipt of the notice issued pursuant to § 13-104(3). The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

**13-406. Violations and penalty.** Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00), plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation.

## CHAPTER 5

### NUISANCES

#### SECTION

- 13-501. Declaration of nuisances.
- 13-502. Duty of maintenance of private property.
- 13-503. Notification.
- 13-504. Hearing.
- 13-505. Corrective action.
- 13-506. Storage of personal property.
- 13-507. Payment of costs.
- 13-508. Judicial review.
- 13-509. Violations and penalty.

**13-501. Declaration of nuisances.** The accumulation of debris, rubbish, trash, cans, bottles, containers, papers, furniture, lumber, stoves, refrigerators, freezers, appliances, equipment and other personal property of any kind, or parts thereof, which are no longer reasonably usable for the purposes for which it was manufactured on any lot, tract or parcel of land or in, under or upon any open structure within the corporate limits of the City of Kingston constitutes a threat or menace to life, property, public health or public welfare, encourages the infestation of rats and other harmful animals, and/or creates a fire hazard and is hereby specifically prohibited and declared to be a public nuisance. (2009 Code, § 13-501)

**13-502. Duty of maintenance of private property.** No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. (2009 Code, § 13-502)

**13-503. Notification.** Whenever any public nuisance, as defined by this chapter, exists on lands within the corporate limits of the City of Kingston, the city manager, or his designee, shall notify the owner of record of said lands and direct them to abate or remove the same. Said notification shall:

1. Be in writing;
2. Specify the nature of the public nuisance and give its location;
3. Specify the corrective measures required; and
4. Require compliance within thirty (30) days from the date of the notification.

The notification shall be served upon the owner or owners of the premises where the nuisance is located by serving them personally or by sending said

notice by certified mail, return receipt requested, to their address as shown on the current tax roll of the City of Kingston. (2009 Code, § 13-503)

**13-504. Hearing.** Within thirty (30) days after the mailing or other service of said notice, the persons to whom the notices are directed, or their duly authorized agents, may file a written request for a hearing before the City Council of the City of Kingston. The hearing shall be held as soon as practicable after the filing of the request therefor and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof. At any such hearing, the city and the persons to whom the notices have been directed may introduce such witnesses and evidence as is deemed necessary and proper by the city council. (2009 Code, § 13-504)

**13-505. Corrective action.** If the violation described in the notice has not been remedied by the owner or occupant within thirty (30) days of the mailing or service thereof, or in the event that a notice requesting a hearing is timely filed and the existence of the violation is affirmed by the city council after hearing, pursuant to the police power to do all things whatsoever necessary for promoting or maintaining the general welfare of the city or its inhabitants, the following procedures will be commenced to affect the corrective measures and the removal of the offending items by the City of Kingston. The codes enforcement officer, or his duly authorized representative, may enter onto such premises and take the corrective action specified in the notice so that the nuisance identified by said letter is removed or abated. (2009 Code, § 13-505)

**13-506. Storage of personal property.** Personal property not dangerous to the public health or safety shall be stored by the city. All debris, rubbish, trash, cans, bottles, containers, papers and dangerous material shall be disposed of at the time of removal. If the owner wishes to reclaim the personal property and pays the city for all expenses involved in the removal and storage of any personal property within ten (10) days of such removal and indicates in writing that such items will not be taken to a location where it will be in violation of this chapter, possession shall be relinquished to such owner. If possession is not thus relinquished to the owner, the city manager shall sell any such items after publication of notice thereof of ten (10) days prior to the sale in a newspaper of general circulation in the city. (2009 Code, § 13-506)

**13-507. Payment of costs.** Upon the completion of the corrective action carried out by the codes enforcement officer as authorized herein, the actual costs of such action, the cost of any transportation of property, the cost of storage, plus a fee of fifteen percent (15%) for administrative cost, shall be billed to the owner or owners of said property by the City of Kingston. If said bill is not paid in full within sixty (60) days after its date of mailing, a ten percent (10%) penalty shall be added and said costs and penalties shall be placed on the

tax rolls of the City of Kingston as lien upon said property and collected in the same manner as other city taxes are collected. (2009 Code, § 13-507)

**13-508. Judicial review.** Any person aggrieved by an order or act of a public officer or of the city council under this chapter may seek judicial review of the order or act. The time period established above shall be stayed during the pendency of judicial review. (2009 Code, § 13-508)

**13-509. Violations and penalty.** If said owners allow said nuisance to exist or fail to abate said nuisance, they, and each of them, upon conviction thereof, shall be fined not more than fifty dollars (\$50.00) for each offense and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist. (2009 Code, § 13-509)

**TITLE 14****ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.

**CHAPTER 1****MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.

**14-101. Creation and membership.** Pursuant to the provisions of *Tennessee Code Annotated*, § 13-4-101, the city council has heretofore created a municipal planning commission, hereinafter referred to as the planning commission. From and after January 1, 2023, membership of the municipal planning commission shall consist of eight (8) members until the expiration of the term of the sitting member whose term shall expire in calendar year 2023, at which time, the commission shall be composed thereafter of seven (7) members. One (1) member shall be the mayor of the municipality and one (1) member shall be a councilman selected by the city council. The terms of the mayor and the member selected from the city council shall run concurrently with their terms of office on the council. The other five (5) members shall be appointed by the mayor and shall serve for a term of four (4) years, provided however, the mayor shall have the authority to remove any appointive member at his pleasure. All members of the planning commission shall serve without compensation. All members appointed prior to January 1, 2023 shall be eligible to continue to serve for the balance of their original term of eight (8) years and to be reappointed at the expiration of their term for additional successive four (4) year terms without regard to any residency requirements. From and after January 1, 2023, all other members appointed to serve shall be residents of the City of Kingston and shall serve for a term of four (4) years. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (Ord. #22-12-13-03, Jan. 2023)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in



accordance with all applicable provisions of *Tennessee Code Annotated*, title 13.  
(2009 Code, § 14-102)

**CHAPTER 2**

**ZONING ORDINANCE**

**SECTION**

14-201. Land use to be governed by zoning ordinance.

**14-201. Land use to be governed by zoning ordinance.** Land use within the City of Kingston shall be governed by Ord. #84-3-8, titled "Zoning Ordinance Kingston, Tennessee," and any amendments thereto, which are adopted by reference as if fully set out herein.<sup>1</sup> (2009 Code, § 14-201)

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<sup>1</sup>Ord. #84-3-8, and any amendments thereto, are published as separate documents and are of record in the office of the city clerk.

## CHAPTER 3

### FLOOD DAMAGE PREVENTION ORDINANCE

#### SECTION

- 14-301. Statutory authorization, findings of fact, and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.
- 14-307. Legal status provisions.

#### **14-301. Statutory authorization, findings of fact, and objectives.**

(1) Statutory authorization. The General Assembly of the State of Tennessee has in Private Act 1961, Chapter 36, delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Kingston, Tennessee does ordain the following.

(2) Findings of fact. (a) The City Council of the City of Kingston, Tennessee, wishes to maintain eligibility in the National Flood Insurance Program and in order to do so, must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-1-04 edition).

(b) Areas of the City of Kingston, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation flood waters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(2) Objectives. The objectives of this chapter are:

(a) To protect human life, health and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, and sewer lines, streets and bridges located in floodable areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the National Flood Insurance Program. (modified)

**14-302. Definitions.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) "Accessory structures" shall not be used for human habitation.

(b) "Accessory structures" shall be designed to have low flood damage potential.

(c) "Accessory structures" shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.

(d) "Accessory structures" shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities, such as electrical and heating equipment, shall be elevated or flood-proofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. §§ 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a firewall or is separated by an independent perimeter load bearing wall shall be considered new construction (see "new construction").

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' - 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(6) "Area of special flood-related erosion hazard" means the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").

(12) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

(13) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood water, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(15) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

(16) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(17) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(19) "Existing structures" see "existing construction."

(20) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction or facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(23) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(24) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(25) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flood" or "flooding").

(28) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

(29) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(30) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(31) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water, as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as

a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(32) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(33) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(34) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(36) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(37) "Functionally dependent use" means a use which cannot perform its intended purpose, unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(38) "Highest adjacent grade" mean the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(39) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district.



(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior.

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(40) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(41) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(42) "Lowest floor" means the "lowest floor" of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's "lowest floor;" provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(43) "Manufacture home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(44) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this chapter or the effective

date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(49) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this chapter or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(50) "North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(51) "100-year flood." See "base flood."

(52) "Person" means any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(53) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(54) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(55) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(56) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(57) "Start of construction" means substantial improvement, and means the date the building permit was issued; provided the actual "start of construction," repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. ("Permanent construction"

does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency" means the Tennessee Department of Economic and Community Development, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the National Flood Insurance Program for the state.

(59) "Structure" means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(61) "Substantial repairs" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial repair or improvement; or

(b) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

(c) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(d) Any alteration of a "historic structure;" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "Substantially improved existing manufactured home parks or subdivisions" means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

(64) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**14-303. General provisions.** (1) Application. This chapter shall apply to all areas within the incorporated area of Kingston, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Kingston, Tennessee, Federal Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47117C0135D, 47117C0154D, 47117C0155D, 47117C0156D, 47117C0157D, 47117C0158D, 47117C0159D, 47117C0165D, 47117C0166D, 47117C0167D, 47117C0178D, and 47117C0186D, dated September 28, 2007, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Kingston, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Kingston, Tennessee from taking such other lawful actions to prevent or remedy any violation.

(9) Repeal. Any existing ordinance, titled "The Kingston Municipal Flood Damage Prevention Ordinance," is hereby repealed in its entirety and replaced with this new chapter of the same title.

**14-304. Administration.** (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to, the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment; and drainage facilities. Specifically, the following information is required.

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in § 14-304(2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit.

The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by, or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

(a) Review of all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor, including basement of all new or substantially improved buildings, in accordance with subsection (2).

(f) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable, to which the new or substantially improved buildings have been flood-proofed, in accordance with subsection (2).

(g) When flood proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with subsection (2).

(h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency, then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this chapter.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or

flood-proofing certifications shall be recorded as set forth in subsection (2).

(j) All records pertaining to the provisions of this chapter shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files.

**14-305. Provisions for flood hazard reduction.** (1) General standards. In all flood-prone areas, the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter; and

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter shall



be undertaken only if said nonconformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein.

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of flood water shall be provided in accordance with the standards of this subsection (2).

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three feet (3') above the highest adjacent grade ("lowest floor" and "highest adjacent grade" being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or flood-proofed no lower than one foot (1') above the level of the base flood elevation.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three feet (3') above the highest adjacent grade ("lowest floor" and "highest adjacent grade" being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

Buildings located in all A zones may be flood-proofed, in lieu of being elevated; provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood

elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finish grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices; provided they permit the automatic flow of flood waters in both directions.

(ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of flood waters and all such petitions shall comply with the provisions of § 14-305(2) of this chapter.

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) When base flood elevations are available, the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one foot (1') above the level of the base flood elevation; or

(B) Absent base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers

(or other foundation elements) at least three feet (3') in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of subsection (2)(d).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed on identified flood hazard sites must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-303(2) are areas designated as

floodways. A floodway may be an extremely hazardous area due to the velocity of flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted; however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of this section.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with subsection (2).

(5) Standards for streams without established base flood elevations or floodways (A zones). Located within the areas of special flood hazard established in § 14-303, where streams exist, but no base flood data has been provided (A zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-303, then the administrator shall

obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of this section. Only if data is not available from these sources, then the following subsections (5)(b) and (5)(c) shall apply.

(b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of subsection (2) and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH zones).

Located within the areas of special flood hazard established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' - 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of subsection (2) and "elevated buildings."

(b) All new construction and substantial improvements of non-residential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood-proofed and designed watertight to be completely flood-proofed to at least one foot (1') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and

hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood-proofed to at least three feet (3') above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter, and shall provide such certification to the administrator as set forth above and as required in § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide flood waters around and away from proposed structures.

(d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 zones). Located within the areas of special flood hazard established in § 14-303 are areas of the 100-year floodplain protected by a flood protection system, but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 zones), all provisions of §§ 14-304 and subsection (1) above shall apply.

(8) Standards for unmapped streams. Located within Kingston, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-304.

**14-306. Variance procedures.** (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established to hear and decide appeals and requests for variances from the requirements of this chapter. The membership of the Kingston Board of Zoning Appeals shall serve as the board of floodplain review.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of

floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the city council.

(c) Appeals; how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in the carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance, the following shall apply:

(A) The Kingston Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, and water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon: a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud



on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

**14-307. Legal status provisions.** (1) Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of Kingston, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional.

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic control signs, etc.
- 15-109. General requirements for traffic control signs, etc.
- 15-110. Unauthorized traffic control signs, etc.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

Parking lot paving requirements: title 16, chapter 3.

<sup>2</sup>State law references

Under *Tennessee Code Annotated*, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by *Tennessee Code Annotated*, § 55-10-401; failing to stop after a traffic accident where death or injury occurs, as prohibited by *Tennessee Code Annotated*, §§ 55-10-101, *et seq.*; driving while license is suspended or revoked, as prohibited by *Tennessee Code Annotated*, § 55-50-504; and drag racing, as prohibited by *Tennessee Code Annotated*, § 55-10-501.

- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Motorcycles, motor-driven cycles, motorized bicycles, bicycles, etc.
- 15-121. Delivery of vehicle to unlicensed driver, etc.
- 15-122. Compliance with financial responsibility law required.
- 15-123. Adoption of state traffic statutes.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits, unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by *Tennessee Code Annotated*, title 55, chapter 9.

**15-102. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose.

**15-103. Reckless driving.** 1. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property.

2. Any person operating a vehicle on the highway shall give his full time and entire attention to the operation of the vehicle.

3. It shall be unlawful for any person to operate a vehicle in a careless, inattentive or imprudent manner, without due regard for the width, grade, curves, corners, traffic, weather and road conditions and all other attendant circumstances or to drive a vehicle on either public or private property in the city without the care and caution of a reasonably prudent person under the circumstances then and there existing, or in a manner so as to endanger or be likely to endanger any person or property. (2009 Code, § 15-103)

**15-104. One-way streets.** On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle, except in the indicated direction.

**15-105. Unlaned streets.** (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street, except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

**15-106. Laned streets.** On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel, except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right-hand lane, unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right-hand lanes shall be available for use, except that traffic moving at less than the normal rate of speed shall use the extreme right-hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary.

**15-107. Yellow lines.** On streets with a yellow line placed to the right of any lane line or centerline, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line, except when necessary to make a lawful left turn from such street.

**15-108. Miscellaneous traffic control signs, etc.**<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city, unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-504--15-508.

**15-109. General requirements for traffic control signs, etc.**

Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*,<sup>1</sup> and shall be uniform as to type and location throughout the city.

**15-110. Unauthorized traffic control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal.

**15-111. School safety patrols.** All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals.

**15-112. Driving through funerals or other processions.** Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

**15-113. Clinging to vehicles in motion.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to, any other moving vehicle upon any street, alley, or other public way or place.

**15-114. Riding on outside of vehicles.** It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties, nor to persons riding in the load-carrying space of trucks.

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<sup>1</sup>For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, §§ 1680-3-1, *et seq.*

**15-115. Backing vehicles.** The driver of a vehicle shall not back the same, unless such movement can be made with reasonable safety and without interfering with other traffic.

**15-116. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle.

**15-117. Causing unnecessary noise.** It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

**15-118. Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Classified and Commercial Driver License Act of 1988."

**15-119. Passing.** Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction, unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

**15-120. Motorcycles, motor-driven cycles, motorized bicycles, bicycles, etc.** (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated.

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred (1,500) pounds, and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc).

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters (50cc) which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motorcycle, motor-driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles, except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor-driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor-driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor-driven cycle or motorized bicycle shall be used to carry more persons at one (1) time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor-driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor-driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) (a) Each driver of a motorcycle, motor-driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subsections (7)(a)(ii) to (7)(a)(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1-1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Foundation.

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred (1,500) pounds and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor-driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor-driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor-driven cycle or motorized bicycle in violation of this section.



**15-121. Delivery of vehicle to unlicensed driver, etc.**

(1) Definitions. (a) "Adult" means any person eighteen (18) years of age or older.

(b) "Automobile" means any motor-driven automobile, car, truck, tractor, motorcycle, motor-driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Driver's license" means a motor vehicle operator's license or chauffeur's license issued by the State of Tennessee.

(e) "Juvenile" means a person less than eighteen (18) years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operator's or chauffeur's license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of Kingston, unless such person has a valid motor vehicle operator's or chauffeur's license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.

**15-122. Compliance with financial responsibility law required.**

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50, any provision in this title of this municipal code, or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard

to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under *Tennessee Code Annotated*, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected.

**15-123. Adoption of state traffic statutes.** By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the city adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the city adopts *Tennessee Code Annotated*, §§ 55-8-181 to 55-8-193, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-8-199 by reference as if fully set forth in this section.

## CHAPTER 2

### EMERGENCY VEHICLES

#### SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (2009 Code, § 15-201)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(2) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(3) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(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. (2009 Code, § 15-125)

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<sup>1</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
§ 15-501.

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (2009 Code, § 15-203)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or police officer. (2009 Code, § 15-204)

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

**15-301. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (2009 Code, § 15-301)

**15-302. At intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (2009 Code, § 15-302)

**15-303. In school zones.** Pursuant to *Tennessee Code Annotated*, § 55-8-152, the city/town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

**15-304. In congested areas.** It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (2009 Code, § 15-304)

## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (2009 Code, § 15-401)

**15-402. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. (2009 Code, § 15-402)

**15-403. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the centerlines of the two (2) roadways. (2009 Code, § 15-403)

**15-404. 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 the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (2009 Code, § 15-404)

**15-405. U-turns.** U-turns are prohibited. (2009 Code, § 15-405)

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At "stop" signs.
- 15-504. At "yield" signs.
- 15-505. At traffic control signals generally.
- 15-506. At flashing traffic control signals.
- 15-507. At pedestrian control signals.
- 15-508. Stops to be signaled.

**15-501. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (2009 Code, § 15-502)

**15-502. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (2009 Code, § 15-503)

**15-503. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (2009 Code, § 15-504)

**15-504. At "yield" signs.** The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (2009 Code, § 15-505)

**15-505. At traffic control signals generally.** Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go."

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution."

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop."

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a 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 shall not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow.

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized to do so by a pedestrian "Walk" signal.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have



no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (2009 Code, § 15-506)

**15-506. At flashing traffic control signals.** Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (2009 Code, § 15-507)

**15-507. At pedestrian control signals.** Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (2009 Code, § 15-508)

**15-508. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (2009 Code, § 15-509)

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 55-8-143.

## CHAPTER 6

### PARKING<sup>1</sup>

#### SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.
- 15-607. Handicapped parking.

**15-601. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (2009 Code, § 15-601)

**15-602. Angle parking.** On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (2009 Code, § 15-602)

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<sup>1</sup>Parking meters were eliminated by the city pursuant to ord. adopted 7/7/81.

**15-603. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (2009 Code, § 15-603)

**15-604. Where prohibited.** No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(9) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(10) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(11) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(12) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:

(a) Physically handicapped; or

(b) Parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under *Tennessee Code Annotated*, § 55-8-160(c). (2009 Code, § 15-604)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (2009 Code, § 15-605)

**15-606. Presumption with respect to illegal parking.** When any unoccupied vehicle is found parked in violation of any provision of this chapter,

there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (2009 Code, § 15-606)

**15-607. Handicapped parking.** There is hereby established the following practices for regulating reserved parking for handicapped persons.

1. The city is hereby authorized to designate, by the installation of appropriate signs, parking spaces for the exclusive use of handicapped persons in those areas where a significant demand for parking by such handicapped persons may exist upon city-owned property or upon public streets, alleys and travel ways within the city.

Any business, firm, or other person transacting business with the public from a permanent location may provide specially marked parking spaces upon private property for the exclusive use of persons qualifying for the rights and privileges extended to handicapped persons by this section.

Each such parking space so designated in accordance with the provisions of this section, either on public or private property, shall be marked and maintained with the stylized wheel chair symbol designated by *Tennessee Code Annotated*, § 55-21-104. Provided, however, nonconforming markings or signs shall be acceptable during the useful life of such markings or signs which may not be extended by other than normal maintenance so long as such marking or signs provide reasonable notice of the specially marked parking spaces.

2. It shall be unlawful for any person, except a handicapped driver who meets the requirements for the issuance of a distinguishing placard or license plates, disabled veteran's license plate or distress flag or card as provided in *Tennessee Code Annotated*, § 55-21-101, et seq., and who displays said distinguishing license plate, placard or card or for any person transporting a handicapped person by vehicle designated for the transportation of handicapped persons, to park in any parking space designated with the wheelchair disabled sign.

3. It shall be unlawful for any person operating a vehicle bearing the universal access symbol, to-wit: the blue and white wheelchair disabled sign, to park in any space designated for handicapped drivers and for vehicles designated for the transportation of handicapped persons except when actually engaged in the transportation of handicapped persons as defined in this section.

4. Definitions. a. "Handicapped driver." For the purposes of this section, a handicapped driver is one who is disabled by paraplegia, amputation of leg, foot or both hands, or is disabled by loss of use of a leg, foot or both hands, or other conditions, certified to by a physician duly licensed to practice medicine, resulting in an equal degree of disability (specifying the particular condition) so as not to be able to get about without great difficulty, including impairments that, regardless of cause or manifestation, confine such person to a wheelchair or cause such person to walk with difficulty or insecurity and the term includes but is not limited to those persons using braces or crutches, arthritics, spastics

and those with pulmonary or cardiac ills who may be semi-ambulatory. For the purpose of this section, a handicapped driver shall also include the owner of a motor vehicle which owner has vision of not more than 20/200 with correcting glasses.

b. "Vehicles designated for transportation of handicapped persons." Any vehicle bearing the universal symbol of access, to-wit: the blue and white wheelchair disabled sign, being used to chauffeur or otherwise transport handicapped persons, is a vehicle designated for transportation of handicapped persons. Said handicapped persons, for the purposes of this section, are persons who are handicapped to the same degree of physical disability or impairment as a handicapped driver as defined in subsection (a) above.

5. Any person violating any provisions of 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. (2009 Code, § 15-607)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.

**15-701. Issuance of traffic citations.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (2009 Code, § 15-701)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (2009 Code, § 15-702)

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

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<sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 3.

State law reference

*Tennessee Code Annotated*, §§ 7-63-101, *et seq.*

For parking violations the offender may waive his right to a judicial hearing and have charges disposed of out of court, but the fine shall be at such rates as are from time to time set by the city council. (2009 Code, § 15-703, modified)

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of. (2009 Code, § 15-704)

**15-705. Disposal of abandoned motor vehicles.** "Abandoned motor vehicles," as defined in *Tennessee Code Annotated*, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 to 55-16-109. (2009 Code, § 15-705)

## TITLE 16

### STREETS AND SIDEWALKS, ETC<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.
3. PARKING LOT PAVING REQUIREMENTS.
4. GATES AND BARRIERS.
5. UNIFORM PROPERTY IDENTIFICATION SYSTEM.

#### CHAPTER 1

### MISCELLANEOUS

#### SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Street names, official streets and road maps.
- 16-114. City park hours regulated.
- 16-115. Skates and skateboards regulated.

**16-101. Obstructing streets, alleys, or sidewalks prohibited.** No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials, except as authorized by city council.

It is unlawful for any person in any way to injure, damage or obstruct the rights of way, road beds, sides, ditches, culverts, or bridges of the streets within the city limits of the City of Kingston, Tennessee. (2009 Code, § 16-101)

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.



**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (2009 Code, § 16-102)

**16-103. Trees, etc., obstructing view at intersections prohibited.** It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (2009 Code, § 16-103)

**16-104. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup> (2009 Code, § 16-104)

**16-105. Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the city council after a finding that no hazard will be created by such banner or sign. (2009 Code, § 16-105)

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (2009 Code, § 16-106)

**16-107. Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (2009 Code, § 16-107)

**16-108. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (2009 Code, § 16-108)

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

**16-109. Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (2009 Code, § 16-109)

**16-110. Parades regulated.** It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets of the city without some responsible representative first securing a permit from the city manager. No permit shall be issued by the city manager unless such activity will not unreasonably interfere with the traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (2009 Code, § 16-110)

**16-111. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (2009 Code, § 16-111)

**16-112. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (2009 Code, § 16-112)

**16-113. Street names, official streets and road maps.** There is hereby established an official system of street names in the City of Kingston as shown on the street index map of Kingston, Tennessee, dated 1984, as produced by the municipal planning commission, a copy of which is available for public use and inspection in the city clerk's office.

Names of streets in the City of Kingston shall remain as shown on said map unless officially changed by specific ordinance.

No new streets shall be accepted by the city nor municipal improvements made therein until such streets have been named. If they are extensions of existing streets, the existing names shall be continued. If they are not extensions, the names recorded shall not duplicate or closely approximate street names already assigned. The city shall maintain an official streets and roads map in the office of the city manager, and shall update said map as required. The showing or identification of streets, roads and rights-of-way on said map as public streets, roads or rights-of-way either open or unopened, shall not be construed to mean that the city will or is obligated to open, construct of

otherwise participate in the development of new streets beyond such acts such as inspections and other acts required to complete the public acceptance processes used by the city. (2009 Code, § 16-113)

**16-114. City park hours regulated.**<sup>1</sup> Southwest Point and Kingston City Park and facilities contained thereon are closed for public use during the hours from 11:00 P.M. to 6:00 A.M. It shall be unlawful for any person to use Kingston City Park and Southwest Point property or facilities during said hours, except for public participation or attendance during activities or events specifically authorized by the city manager. (2009 Code, § 16-115)

**16-115. Skates and skateboards regulated.** (1) Definitions. As used in the interpretation of this section, the following words shall have the meanings assigned to them:

(a) "Skates" and "roller skates." Devices fastened to or worn upon the feet for riding upon, generally known as "roller skates." The term shall include devices known as "center skates," and roller skates of any kind and description regardless of the number, location and configuration of the wheels.

(b) "Skateboard." A foot board mounted upon one or more wheels designed for riding upon, usually by, but not limited to, standing.

(2) Use on public sidewalk prohibited. It shall be unlawful for any person to ride upon skates or skateboards on the public sidewalks anywhere in the city. (2009 Code, § 16-116)

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<sup>1</sup>Municipal code reference

Parks and recreation commission: title 2, chapter 1.

## CHAPTER 2

### EXCAVATIONS<sup>1</sup>

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.
- 16-211. Plans for driveway cuts.
- 16-212. Maximum slope.
- 16-213. Paving.
- 16-214. Violations and penalty.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city manager is open for business, and the permit shall be retroactive to the date when the work was begun. (2009 Code, § 16-201)

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<sup>1</sup>Municipal code reference

Grading and excavation code: title 12, chapter 4.

State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of *City of Paris, Tennessee v. Paris-Henry County Public Utility District*, 207 Tenn. 388, 340 S.W.2d 885 (1960).

**16-202. Applications.** Applications for such permits shall be made to the city manager, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the city recorder within twenty-four (24) hours of its filing. (2009 Code, § 16-202)

**16-203. Fee.** The fee for such permits shall be at such rates as are from time to time set by the city council. (2009 Code, § 16-203, modified)

**16-204. Deposit.** No such permit shall be issued unless and until the applicant therefor has deposited with the city manager a cash deposit in the sum of twenty-five dollars (\$25.00), if no pavement is involved, and seventy-five dollars (\$75.00) if the excavation is in a paved area, to insure the proper restoration of the ground and laying of the pavement, if any, except that where the amount of the deposit is clearly inadequate to cover the cost of relaying the surface of the ground or pavement the city manager may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the city of relaying surface of the ground or pavement and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored. (2009 Code, § 16-204)

**16-205. Safety restrictions on excavations.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (2009 Code, § 16-205)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the city but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the city

manager shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (2009 Code, § 16-206)

**16-207. Insurance.** In addition to making the deposit hereinbefore provided to be made, each person applying for such a permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the city manager in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury in effect shall not be in an amount less than one hundred thirty thousand dollars (\$130,000.00) for each person and three hundred fifty thousand dollars (\$350,000.00) for each accident and the liability insurance for property damages shall be in an amount not less than fifty thousand dollars (\$50,000.00). (2009 Code, § 16-207)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city manager. (2009 Code, § 16-208)

**16-209. Supervision.** The person designated by the city manager shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (2009 Code, § 16-209)

**16-210. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb, sidewalk or public right-of-way without first obtaining a permit from the city manager. Such a permit will not be issued when the

contemplated driveway is to be located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (2009 Code, § 16-210)

**16-211. Plans for driveway cuts.** All plans submitted to the building inspector for construction within the City of Kingston, both residential and commercial, shall include plans for the driveways to be constructed and used in conjunction with the proposed structure or structures. Said plans shall include the number of driveway cuts, the length and width of same, as well as the grade of the driveways. Adequate drainage tile shall be required, when needed, based upon the drainage area to be served. Said size shall be determined by the Director of Public Works, and included upon the building permit. (2009 Code § 16-211)

**16-212. Maximum slope.** No portion of a driveway slope shall exceed fifteen percent (15%) slope within the required set back area as determined by the Zoning Ordinance, however, this provision shall not apply to existing lots of record with street frontage of less than fifty feet (50') or lots which have a topographical slope greater than thirty percent (30%). (2009 Code, § 16-212)

**16-213. Paving.** All driveways shall be constructed level with the roadway within the right-of-way and shall be paved with asphalt, concrete or other permanent paving a distance of twenty feet (20') beginning at the edge of the road paving with a minimum width of ten feet (10'). This paving shall be done as completion of construction and weather permits and under no circumstances more than six (6) months after completion. (2009 Code, § 16-213)

**16-214. Violations and penalty.** Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

## CHAPTER 3

### PARKING LOT PAVING REQUIREMENTS

#### SECTION

- 16-301. Purpose.
- 16-302. Definitions.
- 16-303. Engineering specifications.
- 16-304. Permit required.
- 16-305. Alternative methods and materials.

**16-301. Purpose.** The purpose of this chapter is to require all driveways and parking areas and lots to be constructed with such methods and materials that the driveways or parking lots will be able to stand up to all anticipated uses and to all anticipated weather conditions, without significant damage. By use of currently prepared specifications, the city will authorize use of current knowledge of materials and methods. (2009 Code, § 16-301)

**16-302. Definitions.** As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) "City." The City of Kingston.
- (2) "Driveway." Any area intended to be utilized as access from a public way or private easement to a public or private structure or parking lot.
- (3) "Driveway or parking lot pavement." Any surface, plus the materials, if any, under the surface, constructed as a parking lot on the ground.
- (4) "Parking lot." Any area intended for parking of motor vehicles as an accessory to any use, including but not limited to single-family residences and residence buildings for fewer than four (4) families. (2009 Code, § 16-302)

**16-303. Engineering specifications.** All driveways or parking lots shall be of either asphalt or concrete construction only. Asphalt driveways or parking lots shall be constructed upon land with a subsurface sufficient to support the paving material and shall be paved to a compacted depth of not less than one and one-half (1-1/2) inches, and concrete driveways must be poured with a minimum thickness of four inches (4"). All driveways shall not be less than twelve feet (12') in width and shall run from the pavement line on the street frontage of each tract to the structure located upon the individual tract. Each driveway or parking lot constructed after the effective date of this chapter shall conform to the requirements set out in these specifications. The provisions of this section shall apply to all driveways or parking lots located within the city, whether publicly or privately owned. (2009 Code, § 16-303)



**16-304. Permit required.** No person, firm or corporation shall construct any driveway or parking lot pavement without obtaining a permit for such construction. The contractor constructing the driveway or parking lot shall have the responsibility of obtaining such permit. When the driveway or parking lot is being constructed as a part of a project where a building permit is required, the building permit shall encompass the permit for parking lot or driveway construction and no separate permit or fee shall be required. For all other cases, the fee for such permit shall be twenty-five dollars (\$25.00). Applications for such permits and processing of such applications shall be done in the manner provided for applications for building permits. (2009 Code, § 16-304)

**16-305. Alternative methods and materials.** Any applicant for a permit may submit a proposal using different methods and materials than those set out in the specifications adopted by this chapter. Upon a showing by the applicant that the proposed methods and materials will withstand the same usage and weather conditions as the methods and materials authorized in the specifications, the alternate method shall be approved and the permit issued provided, however, that any method that has not been in use or undergoing testing under conditions similar to actual use for at least three (3) years shall not be approved in accordance with this chapter. (2009 Code, § 16-305)

**CHAPTER 4****GATES AND BARRIERS****SECTION**

- 16-401. Definitions.
- 16-402. Applicability of provisions.
- 16-403. Design standards.
- 16-404. Permit -- required when -- application.
- 16-405. Permit -- fee.
- 16-406. Permit -- issuance conditions.
- 16-407. Liability limitations.
- 16-408. Inspection authority.
- 16-409. Maintenance and repair -- responsibility.
- 16-410. Maintenance and repair -- time limit.

**16-401. Definitions.** Unless otherwise specifically defined, the terms used in this chapter shall have the following meanings:

- (1) "Building inspector" means that official designated by the City of Kingston to issue building permits.
- (2) "City" means the City of Kingston.
- (3) "Fire chief" means the fire chief of the Fire Department of the City of Kingston.
- (4) "Gate" means a moveable barrier designed and constructed to prohibit or limit motor vehicle access from private property to a public street. (2009 Code, § 16-401)

**16-402. Applicability of provisions.** (1) The provisions of this chapter shall apply to all gates which are designed and constructed on private property and are intended to limit or restrict motor vehicle access to a public street or thoroughfare except as set out in subsection (2).

- (2) The provisions of this chapter shall not apply to the following:
  - (a) Gates restricting access to where there are no structures or improvements located thereon;
  - (b) Gates providing access to private property used solely for agricultural or farming purposes;
  - (c) Gates on private streets or driveways serving only one residential dwelling;
  - (d) Gates attended by an operator at all times when the gate is in a closed position; or
  - (e) Gates where there is an alternative and unobstructed access satisfactory to the city. (2009 Code, § 16-402)

**16-403. Design standards.** All gate installations must satisfy either of the following design standards:

(1) A turnaround shall be provided adjacent to the gate. The turnaround shall allow passenger and local delivery vehicles to exit the site without backing. The turn around need not be designed or adequate for tractor trailer use.

(2) A sign shall be located at a point visible from the public roadway indicating "locked gate ahead."

(3) All gates shall be equipped with an opening system approved by the city which may include but not be limited to such of the following as the fire chief deems appropriate: siren activation, key pad system, an approved lock box with toggle switch, house activation by residents through phone, intercom, magnetic card or other approved system.

(a) If a gate is to be assessed by emergency services using siren activation, the gate timer shall be set to remain open for a minimum of five (5) minutes.

(b) If a pass code is used an approved four (4) digit pass code shall be provided for police and fire and a separate approved pass code shall be provided for public works. Access using key pad pass codes shall not be required to lock the gate open. Protocol access (#,\*) shall be noted/displayed on the access pad.

(c) Pass codes or any other necessary access items shall be furnished at the homeowner's association or responsible owner's expense as needed by local fire, police and public works departments.

(4) All gates shall include an activation system for use by the owners of property located on the street. This system shall operate independently of the emergency access system, and may utilize key pads, magnetic cards, radio transmitters, cameras or other mechanisms approved by the city.

(5) All gates shall include an auxiliary power supply which shall automatically lock the gate open in the event of a power outage.

(6) There shall be an unlocked pedestrian access in all residential developments.

(7) Gates shall be constructed of materials approved by the city.

(8) If the gate swings open, the gate shall be constructed in a manner so as to allow viewing of obstructions located within the swing path of the gate.

(9) Tire puncture devices shall be prohibited.

(10) Gate width for each travel lane shall be equal to the right of way width.

(11) Gate design shall be provided to the building inspector and fire chief. (2009 Code, § 16-403)

**16-404. Permit -- required when -- application.** (1) Except as provided in § 16-402(2), any person desiring to install a gate shall obtain an

application form from the building inspector. The applicant shall submit a completed application and supply the following information:

- (a) A vicinity and site map of the proposed location for the gate.
  - (b) A plan view and elevation of the gate installation illustrating gate dimensions and the direction of the swing path for the gate.
  - (c) A plan view of the gate turnaround.
  - (d) The location of the access-control panel.
  - (e) Control systems information, spec sheets, etc.
  - (f) The name, address and phone number of the applicant.
  - (g) The written consent of all property owners affected by the restricted access. A homeowner's association owning and maintaining roads within a development may consent for its membership. In all other instances, consent must be given individually by each property owner affected by the restricted access.
  - (h) Such other information as may be required by the building inspector and/or the fire chief.
- (2) The applications shall be signed and dated by the applicant. (2009 Code, § 16-404)

**16-405. Permit – fee.** Any person submitting an application for a gate shall pay permit fee at the time of submittal of the application. These fees shall be in addition to any other permit, development, or construction fees for the development. (2009 Code, § 16-405)

**16-406. Permit – issuance conditions.** Upon receipt of properly completed applications for a gate installation together with the application fees, the building inspector shall issue permit authorizing the installation, construction and acceptance of the gate.

After the effective date of the ordinance comprising this chapter, construction or installation of gates shall not commence until building inspector and the fire chief or their designees have completed reviews and issued permits. (2009 Code, § 16-406)

**16-407. Liability limitations.** The city shall have no liability for any damages to the gate resulting from city vehicles or personnel accessing the property, whether responding to actual or false emergencies. Any damage sustained by city vehicles due to the date installation shall be the responsibility of the party responsible for maintenance and repair of the gate. (2009 Code, § 16-407)

**16-408. Inspection authority.** The city shall have the right to inspect the gate on a periodic basis with being liable for trespass. Gate keys, cards, remotes, pass codes or any other gate function or activating device necessary for

emergency access shall not be changed or altered without prior approval of the building inspector and/or the fire chief. (2009 Code, § 16-408)

**16-409. Maintenance and repair – responsibility.** Maintenance and repair of the gate and related equipment shall be the responsibility of the applicant. The applicant may assign the obligation for maintenance and repair of the gate and related equipment to another person or entity, including a homeowner's association. In the event of such assignment, the applicant shall notify the building inspector. (2009 Code, § 16-409)

**16-410. Maintenance and repair -- time limit.** (1) The party responsible for the maintenance and repair shall maintain it in accordance with the design criteria.

(2) If the emergency access features need repair or maintenance, the gate shall remain locked open until repairs or maintenance is completed. Failure to make repairs shall constitute a violation of the terms of the gate permit, and in such event the city may require a removal of the gate and related equipment. For any repairs affecting the emergency access features the inspection by the building inspector shall occur prior to gate returning to normal operation. (2009 Code, § 16-410)

**CHAPTER 5****UNIFORM PROPERTY IDENTIFICATION SYSTEM****SECTION**

- 16-501. Uniform numbering system.
- 16-502. Assignment of street numbers.
- 16-503. Posting of designated street address.
- 16-504. New buildings and administration.
- 16-505. Violations and penalty.

**16-501. Uniform numbering system.** (1) A uniform system is hereby established for numbering properties and principal buildings fronting on all public and private streets, avenues, boulevards, roads, lanes, alleys, and other ways in the City of Kingston, relying upon the maps and numbering system established by and found in the offices of the Roane County Communications Center, Emergency 911 of Roane County, Tennessee.

(2) The city hereby adopts the system of office of the Emergency 911 of Roane County, Tennessee. Any unincorporated area adjacent to the city may be permitted to be a part of or an extension of the city's property numbering system if approved by the local postmaster and respective governmental jurisdiction. (2009 Code, § 16-501)

**16-502. Assignment of street numbers.** (1) Property numbers for all properties or parcels of land, dwelling units, or places of business shall be assigned by the E-911 Center.

(2) The owner, occupant, person or corporation occupying or responsible for any property, dwelling, or building to which a number has been assigned will be notified in writing by the E-911 Center of the assigned number after passage of this chapter.

(3) Odd numbers shall be assigned to the left-hand side of the street for any and all streets as they proceed outward from either base line, and even numbers shall be assigned to the right-hand side of the street.

(4) All existing numbers of property and buildings not in conformity with provisions of this chapter shall be changed to conform to the system herein adopted within one (1) year from the date of passage of this chapter. (2009 Code, § 16-502)

**16-503. Posting of designated street address.** (1) Each principal building shall display the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one (1) business or family dwelling unit, each separate front entrance may display a separate number.

(2) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be placed either over or at the side of the main entrance of said building or upon the front of any porch or stoop thereof or over or at the side of any gateway leading thereto, or upon the steps thereof in such a manner that the same may be plainly seen and distinguishable from the street on which the property is located and in such manner that the same shall not be hidden from view by an trees or shrubs or other obstructions.

(3) All building numbers displayed shall be permanent, legible figures not less than two and one-half inches (2-1/2") nor more than five inches (5") high and of a color contrasting to the building background.

(4) It shall be the duty of the owner or occupant or person in charge of each principal building upon affixing the new numbers to remove any different number which might be mistaken for, or confused with, the number assigned to said structure by the E-911 Center. (2009 Code, § 16-503)

**16-504. New buildings and administration.** (1) The E-911 Center shall assign the number to each lot or tract which may be hereafter platted, and shall indicate the same upon an approved final subdivision plat.

(2) No building permit shall be issued for any principal building until the owner or developer has procured from the E-911 Center the official number of the premises. Final approval of a certificate of occupancy of any principal building erected or repaired after the adoption of this chapter shall be withheld until permanent and proper numbers have been displayed in accordance with § 16-503 hereof. (2009 Code, § 16-504)

**16-505. Violations and penalty.** In the event that an owner, occupant person, or corporation responsible for any parcel or unit or building refuses to comply with the terms herein stated by failing to affix the number assigned within one (1) year after adoption of this chapter or thirty (30) days after notification of assigned number, such person shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than fifty dollars (\$50.00). Each day the unit or property is in violation of this chapter shall constitute a separate offense. (2009 Code, § 16-505)

## TITLE 17

### REFUSE AND TRASH DISPOSAL<sup>1</sup>

#### CHAPTER

#### 1. REFUSE.

#### CHAPTER 1

#### REFUSE

#### SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Refuse collection fees.
- 17-110. Violations and penalty.

**17-101. Refuse defined.** "Refuse" shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined, except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith.

**17-102. Premises to be kept clean.** All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, except when stored as provided in this chapter.

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within the city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this

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<sup>1</sup>Municipal code references

Littering: title 11, chapter 4.

Property maintenance regulations: title 13.



maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed thirty-five (35) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than thirty-five (35) pounds each and being not more than two feet (2') thick before being deposited for collection.

**17-104. Location of containers.** Where alleys are used by the city refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied, they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection.

**17-105. Disturbing containers.** No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose.

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the city manager. Collections shall be made regularly in accordance with an announced schedule.

**17-107. Collection vehicles.** The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys.

**17-108. Disposal.** The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the city council is expressly prohibited.

**17-109. Refuse collection fees.** Refuse collection fees shall be at such rates as are from time to time set by the city council by resolution or ordinance.<sup>1</sup>

**17-110. Violations and penalty.** Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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<sup>1</sup>Administrative resolutions and ordinances are of record in the office of the city clerk.

**TITLE 18****WATER AND SEWERS****CHAPTER**

1. WATER AND SEWER SYSTEM ADMINISTRATION.
2. GENERAL WASTEWATER REGULATIONS.
3. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
4. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

**CHAPTER 1****WATER AND SEWER SYSTEM ADMINISTRATION<sup>1</sup>****SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Application and contract for service.
- 18-104. Service charges for temporary service.
- 18-105. Connection charges.
- 18-106. Water and sewer main extensions.
- 18-107. Water and sewer main extension variances.
- 18-108. Meters.
- 18-109. Meter tests.
- 18-110. Multiple services through a single meter.
- 18-111. Customer billing and payment policy.
- 18-112. Termination or refusal of service.
- 18-113. Termination of service by customer.
- 18-114. Access to customers' premises.
- 18-115. Inspections.
- 18-116. Customer's responsibility for system's property.
- 18-117. Customer's responsibility for violations.
- 18-118. Supply and resale of water.
- 18-119. Unauthorized use of or interference with water supply.
- 18-120. Limited use of unmetered private fire line.
- 18-121. Damages to property due to water pressure.
- 18-122. Liability for cutoff failures.
- 18-123. Restricted use of water.

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<sup>1</sup>The *Board of Waterworks and Sewerage Policies and Procedures Manual*, and any amendments thereto, may be found in the city clerk's office.

18-124. Interruption of service.

18-125. Schedule of rates.

**18-101. Application and scope.** The provisions of this chapter are a part of all contracts for receiving water and sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise.

**18-102. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the city under either an express or implied contract.

(2) "Dwelling" means any single residential unit or house occupied for residential purposes. Each separate apartment unit, duplex unit or other multiple dwelling unit shall be considered a separate dwelling.

(3) "Premises" means any structure or group of structures operated as a single business or enterprise; provided, however, the term "premises" shall not include more than one (1) dwelling.

(4) "Service line" means and shall consist of the pipe line extending from any water or sewer main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box.

**18-103. Application and contract for service.** Each prospective customer desiring water and/or sewer service will be required to sign an application and pay a nonrefundable connect fee at such rates as are from time to time set by the city council<sup>1</sup>, before service is supplied.

The receipt of a prospective customer's application for service shall not obligate the city to render the service applied for. (modified)

**18-104. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service.

**18-105. Connection charges.** Service lines will be laid by the city from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the city.

When a service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the

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<sup>1</sup>Administrative ordinances and resolutions are of record in the office of the city clerk.

meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer. (modified)

**18-106. Water and sewer main extensions.**<sup>1</sup> Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

All such extensions shall be installed either by city forces or by other forces working directly under the supervision of the city in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the city, such water and/or sewer mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains.

**18-107. Water and sewer main extension variances.** Whenever the city council is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the city council.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons.

**18-108. Meters.** All meters shall be installed, tested, repaired, and removed only by the city, or its authorized designee.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (modified)

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<sup>1</sup>Municipal code reference

Construction of building sewers: title 18, chapter 2.

**18-109. Meter tests.** The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The city will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay actual charges for the meter testing.

The meter is then sent off to an outside company and it is tested by AWWA standards. If the test results are compliant with AWWA standards, the customer will be assessed the actual charges for the test. (modified)

**18-110. Multiple services through a single meter.** No customer shall supply water service to more than one (1) dwelling, premises, duplex unit, apartment or other multiple dwelling unit from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one (1) dwelling, premises, duplex unit, apartment or other multiple dwelling unit to be served through a single service line and meter, the amount of water used by all the dwellings, premises, duplex units, apartments or other multiple dwelling units served through a single service line and meter shall be allocated to each separate dwelling, premise, duplex unit, apartment or other multiple dwelling unit served. The water charge of each such dwelling, premises, duplex unit, apartment or other multiple dwelling unit thus served shall be computed just as if each such dwelling, premises, duplex unit, apartment or other multiple dwelling unit had received through a separately metered service, the amount of water so allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling, premises, duplex unit, apartment or other multiple dwelling unit served through a single service line meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied.

**18-111. Customer billing and payment policy.** Water and sewer bills shall be rendered monthly and shall designate a standard net payment period

for all members of not less than fifteen (15) days after the date of the bill. Failure to receive a bill will not release a customer from payment obligation. There is established for all members a late payment charge at such rates as are from time to time set by the city council<sup>1</sup>, for any portion of the bill paid after the net payment period.

Payment must be received in accordance with water and sewer policies as the city may from time to time adopt by appropriate ordinance or resolution.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. (modified)

**18-112. Termination or refusal of service.** Policies for the termination or refusal of service are contained in the water/sewer policies of the city which may be from time to time revised by appropriate ordinance or resolution.<sup>2</sup>

**18-113. Termination of service by customer.** The city has established a policy regarding termination of service by customer in the water/sewer policies of the city which may be from time to time revised by appropriate ordinance or resolution.<sup>3</sup>

**18-114. Access to customers' premises.** The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations.

**18-115. Inspections.** The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not in compliance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made.

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<sup>1,2,3</sup>Administrative ordinances and resolutions are of record in the office of the city clerk.

**18-116. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer.

**18-117. Customer's responsibility for violations.** Where the city furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him.

**18-118. Supply and resale of water.** All water shall be supplied within the city exclusively by the city, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the city.

**18-119. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city.

**18-120. Limited use of unmetered private fire line.** Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence.

**18-121. Damages to property due to water pressure.** The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains.

**18-122. Liability for cutoff failures.** The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used, but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the city has failed to cut off such service.



(2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off.

**18-123. Restricted use of water.** In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use.

**18-124. Interruption of service.** The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption.

**18-125. Schedule of rates.**<sup>1</sup> All water and sewer service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance or resolution.<sup>2</sup>

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<sup>1</sup>Administrative ordinances and resolutions are of record in the office of the city clerk.

<sup>2</sup>State law reference  
*Tennessee Code Annotated*, § 7-35-414(b).

## CHAPTER 2

### GENERAL WASTEWATER REGULATIONS

#### SECTION

- 18-201. Purpose and policy.
- 18-202. Administrative.
- 18-203. Definitions.
- 18-204. Proper waste disposal required.
- 18-205. Private domestic wastewater disposal.
- 18-206. Connection to public sewers.
- 18-207. Septic tank effluent pump or grinder pump wastewater systems.
- 18-208. Regulation of holding tank waste disposal or trucked-in waste.
- 18-209. Discharge regulations.
- 18-210. Enforcement and abatement.

**18-201. Purpose and policy.** This chapter sets forth uniform requirements for users of the City of Kingston, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act and the State Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health;
- (2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;
- (3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;
- (4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
- (7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Kingston must have adequate wastewater treatment, either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 2 provides for the

issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 2 details permitting requirements, including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

**18-202. Administrative.** Except as otherwise provided herein, the local administrative officer of the city shall administer, implement, and enforce the provisions of this chapter.

**18-203. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

(1) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 §§ U.S.C. 1251, *et seq.*

(2) "Administrator." The administrator or the United States Environmental Protection Agency.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(4) "Authorized or duly authorized representative" of industrial user:

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities; provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (4)(a) to (4)(c), above, may designate a duly authorized representative, if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(5) "Best Management Practices" or "BMPs." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-209. "BMPs" also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees Celsius (20°C) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The National Categorical Pretreatment Standards as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "City." The City Council of the City of Kingston, Tennessee.

(10) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(11) "Compatible pollutant." BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The "approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 CFR § 403.11.

(14) "Cooling water." The water discharge from any use, such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The "daily maximum" for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(20) "Environmental Protection Agency or EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(21) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(22) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a "grab sample(s)" shall be taken to obtain influent and effluent operational data. Collection of influent "grab samples" should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. "Grab samples" will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(23) "Grease interceptor." An interceptor whose rated flow is fifty (50) g.p.m. (gallons per minute) or less and is generally located inside the building.

(24) "Grease trap." An interceptor whose rated flow is fifty (50) g.p.m. or more and is located outside the building.

(25) "Holding tank waste." Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

(26) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(27) "Indirect discharge." The introduction of pollutants into the WWF from any non-domestic source.

(28) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act (33 U.S.C. § 1342).

(29) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy, including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(30) "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.

(31) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(32) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(33) "Local administrative officer." The chief administrative officer of the local hearing authority.

(34) "Local hearing authority." The city council or such person or persons appointed by the council to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-205.

(35) "National categorical pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(36) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) system.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be

applicable to such source if such standards are thereafter promulgated in accordance with that section; provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located;

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (37)(a)(ii) or (37)(a)(iii) of this definition, but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection (37)(c) has commenced if the owner or operator has:

(i) Begun or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work, including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which 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 (37)(c)(ii).

(38) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act, as amended.

(39) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of

a violation of any requirement of the WWF's NPDES permit, including an increase in the magnitude or duration of a violation.

(40) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The man-made or man induced alteration of the chemical, physical, biological, and radiological integrity of water.

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(44) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR § 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(48) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act (33 U.S.C. § 1292) which is owned in this instance by the "municipality" (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the "municipality," as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See "wastewater facility," found in subsection (63) below.

(49) "Shall" is mandatory; "may" is permissive.



(50) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR § 403.6 and 40 CFR chapter I, subchapter N; or

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR § 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR § 403.8(f)(6)).

(51) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8.

(a) Chronic violations of "wastewater discharge limits," defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-205(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports, such as baseline monitoring reports, ninety (90)

day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than one-half (1/2) square unit more than eight (8) times in four (4) hours.

(52) "Slug." Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(53) "Standard Industrial Classification (SIC)." A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

(54) "State." The State of Tennessee.

(55) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the utility director.

(56) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Surcharge." An additional fee assessed to a user who discharges compatible pollutants at concentrations above the established "surcharge" limits. "Surcharge" limits are the level at which the permit holder will be billed higher rates to offset the cost of treating wastewater which exceeds the "surcharge" limits. Exceeding a "surcharge" limit, but not a monthly average or daily maximum limit, will not result in enforcement action.

(58) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(59) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA § 307(a) or other Acts.

(60) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(61) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability, *Tennessee Code Annotated*, § 68-221-201.

(62) "Utility director." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(63) "Wastewater." The liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(64) "Wastewater facility." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances, only if they convey wastewater to a WWF treatment plant. The term also means the "municipality" as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

(65) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(66) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (modified)

**18-204. Proper waste disposal required.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in subsection (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available, property owners

shall, within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Discharging into the sanitary sewer without permission of the city is strictly prohibited and is deemed "theft of service."

(6) Where a public sanitary sewer is not available under the provisions of subsection (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205.

(7) The owner of a manufacturing facility may discharge wastewater to the waters of the state; provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(8) Users have a duty to comply with the provisions of this chapter in order for the city to fulfill the stated policy and purpose. Significant industrial users must comply with the provisions of this chapter and applicable state and federal rules according to the nature of the industrial discharge. (modified)

**18-205. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-204(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department.

**18-206. Connection to public sewers.** (1) Application for service.

(a) There shall be two (2) classifications of service:

(i) Residential; and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on an application form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the utility director. Details regarding commercial and industrial permits include, but are not limited to, those required by this chapter. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this chapter shall be completely and permanently disconnected within sixty (60) days of the effective date of this chapter. The owners of any building sewer having such connections, leaks or defects shall

bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the utility director. A service connection fee shall be paid to the city at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building, except where one (1) building stands at the rear of another on an interior lot, and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found on examination and tested by the utility director to meet all requirements of this chapter. All others may be sealed to the specifications of the utility director.

(e) Building sewers shall conform to the following requirements.

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system: four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: four inch (4") sewers, one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') feet per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe Schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six-inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the utility director. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-207 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and

materials must be approved by the utility director before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or ground water to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered by the utility director or his authorized representative.

(ii) The applicant for discharge shall notify the utility director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the utility director or his representative.

(4) Maintenance of building sewers. (a) Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the utility director to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow stormwater or ground water to enter the sanitary sewer may face enforcement action by the utility director up to and including discontinuation of water and sewer service.

(b) The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: flushable or non-flushable wipes, oil or grease, garbage with particles greater than one half inch (1/2") in any dimension, waste from animal slaughter, spent brewers grains, spent distillers grains, waste grape solids, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, waste paper, wood, plastics, mud, or glass grinding or polishing wastes, any medical supplies such as sponges, bandages, catheters whether of natural or synthetic components, "sharps" such as hypodermic needles or syringes, scalpel blades, acupuncture needles, broken glass, slides and cover slips, or other items with acute ridged corners, edges or protuberances.



(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures, the expansion or extension of the public sewer must be approved in writing by the utility director or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works, located at <http://www.state.tn.us/environment/wpc/publications/>. Contractors must provide the utility director or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the utility director or manager. The utility director or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (modified)

**18-207. Septic tank effluent pump or grinder pump wastewater systems.** When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation difference or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP systems may be installed subject to the regulations of the city.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the city.

(b) Pumps must be approved by the city and shall be maintained by the homeowner or business owner.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for STEP and GP systems as provided by the utility director.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowners, or business owner's expense according to the specifications of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the utility director.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

- (i) Connection of roof guttering, sump pumps or surface drains.
  - (ii) Disposal of toxic household substances
  - (iii) Use of garbage grinders or disposers.
  - (iv) Discharge of pet hair, lint, or home vacuum water.
  - (v) Discharge of fats, grease, and oil.
- (5) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the homeowner.
- (6) Additional charges. The city shall be responsible for maintenance of the STEP and GP equipment. If the city receives regulatory fines related to equipment failure and sewage overflows, all such fines will be passed on to the user.
- (7) Failure to properly operate and maintain. In the event the homeowner or business owner of a septic tank effluent pump or grinder pump system fails to properly operate and maintain the equipment and causes an overflow of sewage onto their property or adjoining property or into "waters of the state," or the Tennessee Department of Environment and Conservation gives notice to the city of such a case then the owner of such equipment shall:
- (a) Allow the city to enter the property to make such repairs and clean-up steps as are appropriate.
  - (b) Legally transfer ownership of the equipment to the city,
  - (c) Provide the city an easement for maintenance of the city's equipment,
  - (d) Maintain an unblocked access to the equipment for city forces,
  - (e) Pay all costs related to repairs, clean-up, and upgrading the equipment within thirty (30) days of notification,
  - (f) Begin to pay the septic tank effluent pump or grinder pump sewer rate which includes city ownership of the equipment and proper operations and maintenance of the equipment.

**18-208. Regulation of holding tank waste disposal or trucked-in waste.** (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste, unless such person, firm, association, or corporation obtains a written approval from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the utility director when the conditions of this chapter have been met and providing the utility director is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter, the applicant shall agree in writing by the provisions of this section and pay an

annual service charge to the city to be set as specified in § 18-207 of this chapter. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The utility director shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The utility director may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the utility director. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Kingston.

(5) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the utility director. This approval may require testing, flow monitoring and record keeping. (modified)

**18-209. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF, whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section or other pretreatment standard may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-205 and 18-210. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials, including, but not limited to, waste streams with a closed cup

flash point of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Celsius (60°C) using the test methods specified in 40 CFR § 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and other flammable substances.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, including, but not limited to, grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Celsius (40°C) (one hundred four degrees Fahrenheit (104°F)), unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants, except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in noncompliance with sludge use or disposal criteria, 40 CFR § 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the utility director in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the utility director and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the utility director and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 2 may be subject to

numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the utility director, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the utility director, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the utility director determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the utility director, the sewer user must:

(A) Implement the plan within a reasonable amount of time; and

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If, in the opinion of the utility director, the user continues to impact the collection system and treatment plant, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors

shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the utility director may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable city guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility, so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the city is prohibited.

(g) The utility director may use industrial wastewater discharge permits under § 18-202 to regulate the discharge of fat, oil and grease. (modified)

**18-210. Enforcement and abatement.** Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health, including the issuance of discharge permits according to chapter 2. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected

from sewer main. Upon notice by the utility director that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the utility director has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the utility director may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, including, if applicable, legal costs, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system.  
(modified)



### CHAPTER 3

#### INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

##### SECTION

- 18-301. Industrial pretreatment.
- 18-302. Discharge permits.
- 18-303. Industrial user additional requirements.
- 18-304. Reporting requirements.
- 18-305. Enforcement response plan.
- 18-306. Enforcement response guide table.
- 18-307. Fees and billing.
- 18-308. Validity.

**18-301. Industrial pretreatment.** In order to comply with Federal Industrial Pretreatment Rules 40 CFR part 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this chapter, the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-209.

(2) Users wishing to discharge pollutants at higher concentrations than Table A Plant Protection Criteria of § 18-209, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-305.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes, and public notice of users found in significant noncompliance.

(4) Surcharge threshold and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge thresholds. Maximum concentrations may also be established for some users.

Table B - Surcharge and Maximum Limits

<u>Parameter</u>	<u>Surcharge Threshold</u>	<u>Maximum Concentration</u>
BOD	220	350
COD	440	700

<u>Parameter</u>	<u>Surcharge Threshold</u>	<u>Maximum Concentration</u>
MBAS	5.00	10.0
Oil and grease	50.00	100
Suspended solids	220	350
Total Kjeldahl Nitrogen (TKN)	45	90.00

(5) User inventory. The utility director will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(6) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(7) Combined waste stream formula. When wastewater subject to categorical pretreatment standards is mixed with wastewater not regulated by the same standard, the permitting authority may impose an alternate limit using the combined waste stream formula. (modified)

**18-302. Discharge permits.** (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the utility director for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers, as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the utility director, the building sewer is installed in accordance with § 18-206 and an inspection has been performed by the utility director or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's

rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows.

(i) Users required by the utility director to obtain a wastewater discharge permit shall complete and file, with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to, the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including, but not limited to, those mentioned in §§ 18-209 and 18-301 discharge variations, daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes, and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans, and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities; and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall, as part of the application for wastewater discharge permit, submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the

user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection (2)(b)(iv), "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency, and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws;

(D) Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling

location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary; and

(G) Requirement to notify the WWF immediately if changes in the user's processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions; and

(I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the prior written approval of the local administrative officer. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation;

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges; and

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspection shall be available to the public or any governmental agency without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use, related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be

available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (modified)

**18-303. Industrial user additional requirements.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 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 phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control, as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.



(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter, or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

**18-304. Reporting requirements.** Users, whether permitted or non-permitted, may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-305.

(1) Baseline monitoring report. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under

Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the utility director a report which contains the information listed in subsection (1)(b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the utility director a report which contains the information listed in subsection (1)(b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) Identifying information. The user's name and address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula.

(v) Measurement of pollutants.

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the utility 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 40 CFR part 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the utility director or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR part 136 or other approved methods.

(H) The utility 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.

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection (2) below.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with the subsection below and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by subsection (1)(d) above.

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

(b) No increment referred to above shall exceed nine (9) months.

(c) The user shall submit a progress report to the utility director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(d) In no event shall more than nine (9) months elapse between such progress reports to the utility 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 WWF, any user subject to such pretreatment standards and requirements shall submit to the utility director a report containing the information described in subsections (1)(b)(iv) and (v) above. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the utility director, submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average, and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the utility director or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the utility director, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the utility 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 utility 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 § 18-301 of this chapter.

(b) The utility director may issue an individual wastewater discharge permit under § 18-302 of this chapter or modify an existing wastewater discharge permit under § 18-302 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the utility 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 five (5) days following such discharge, the user shall, unless waived by the utility 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 WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the

event of a discharge described in subsection (6)(a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the utility 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 shall provide appropriate reports to the utility director as the utility director may require to determine user's status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the utility 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 utility director within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection (9)(a) need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under

subsection (5) above. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self monitoring requirements of subsections (1), (3), and (4) above.

(b) Dischargers are exempt from the requirements of subsection (9)(a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the utility director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the utility director or other parties approved by the EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (11)(b) and (11)(c) below, the user must collect wastewater samples using twenty-four (24) hour

flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the utility director. Where time proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) of this section, 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 utility director may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, the date of receipt of the report shall govern.

(13) Record keeping. 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. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or



the city, or where the user has been specifically notified of a longer retention period by the utility director.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Reports required to have signatures and certification statement include permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (modified)

**18-305. Enforcement response plan.** Under the authority of *Tennessee Code Annotated*, §§ 69-3-123, *et seq.*

(1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the Kingston Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated, and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review, unless the alleged violators request by written petition a

hearing before the local hearing authority, as provided in subsection (2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in *Tennessee Code Annotated*, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (1)(a)(i) through (1)(a)(iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the city or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one (1) of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued, unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed

remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following, under the authority of *Tennessee Code Annotated*, § 69-3-124:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection (2), the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subsection (2)(a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Roane County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its

opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection (2) shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties, unless appealed to the courts as provided in subsection (2)(b); and

(viii) Any person to whom an emergency order is directed under subsection (1)(b)(i)(D) above shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in *Tennessee Code Annotated*, §§ 27-8-101, *et seq.* within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (2)(a) or (2)(b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations; administrative civil penalty. Under the authority of *Tennessee Code Annotated*, § 69-3-125.

(a) (i) Any person, including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars (\$10,000.00)

per day for each day during which the act or omission continues or occurs:

- (A) Unauthorized discharge, discharging without a permit;
- (B) Violates an effluent standard or limitation;
- (C) Violates the terms or conditions of a permit;
- (D) Fails to complete a filing requirement;
- (E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;
- (F) Fails to pay user or cost recovery charges; or
- (G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty, the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the

pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish, by regulation, a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of *Tennessee Code Annotated*, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by *Tennessee Code Annotated*, § 69-3-115(a), shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

Under the authority of *Tennessee Code Annotated*, § 69-3-126.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the city resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of

notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. Under the authority of *Tennessee Code Annotated*, § 69-3-127, the local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-302(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-209.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination utility director.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.



(8) Levels of noncompliance. (a) Insignificant noncompliance. For the purpose of this guide, insignificant noncompliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit, but may include a Notice of Violation (NOV).

(b) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-305(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports, such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF

determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than one-half (1/2) s.u. more than eight (8) times in four (4) hours.

Any significant noncompliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).

(9) Public notice of the significant violations. The utility director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (c), (d) or (h) of this section) and shall mean:

(a) "Chronic violations of wastewater discharge limits," defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the utility director's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance;

(g) Any other violation(s), which may include a violation of best management practices, which the utility director determines will adversely affect the operation or implementation of the local pretreatment program; or

(h) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than one-half (1/2) s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (modified)

**18-306. Enforcement response guide table.** (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A to impose sanctions or penalties for the violation of this chapter.

**18-307. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include, but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees (see Table C);
- (e) Waste hauler permit;
- (f) Industrial wastewater discharge permit fees;
- (g) Fees for industrial discharge monitoring; and
- (h) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-302 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) Sewer user charges. The city council shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with this section.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	\$50.00-\$500.00
Category 3	\$500.00-\$1,000.00
Category 4	\$1,000.00-\$5,000.00
Category 5	\$5,000.00-\$10,000.00

**18-308. Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city.

## CHAPTER 4

### CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Correction of existing violations.
- 18-408. Use of protective devices.
- 18-409. Unpotable water to be labeled.
- 18-410. Violations and penalty.

**18-401. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross-connection." Any physical arrangement whereby the public water supply is connected, directly or indirectly, with any other water supply system, whether sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be "cross-connections."

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device 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.

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<sup>1</sup>Municipal code reference

Plumbing and related codes: title 12.

(6) "Public water supply." The waterworks system furnishing water to the city for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

**18-402. Standards.** The municipal public water supply is to comply with *Tennessee Code Annotated*, §§ 68-221-701 to 68-221-719, as well as the rules and regulations for public water supplies, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses.

**18-403. Construction, operation, and supervision.** It shall be unlawful for any person to cause a cross-connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the city manager or his representative.

**18-404. Statement required.** Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the city manager a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises.

**18-405. Inspections required.** It shall be the duty of the city manager to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the city manager and as approved by the Tennessee Department of Environment and Conservation.

**18-406. Right of entry for inspections.** The city manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

**18-407. Correction of existing violations.** Any person who now has cross-connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the city manager.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the *Tennessee Code Annotated*, § 68-221-711, within a reasonable time and within the time limits set by the city council shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the city shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two (2) systems cannot again be connected by an unauthorized person.

Where cross-connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system, unless the imminent hazard(s) is (are) corrected immediately.

**18-408. Use of protective devices.** Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation;

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the city manager, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply;

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing; and

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the city manager or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the city manager prior to installation, and shall comply with the criteria set

forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the city manager or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one (1) unit has been installed and the continuance of service is critical, the city manager 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 city shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the city manager.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the city.

**18-409. Unpotable water to be labeled.** In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch (1") high located on a red background.

**18-410. Violations and penalty.** The requirements contained herein shall apply to all premises served by the city water system, whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water



distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to occur shall be a separate offense.

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

1. ELECTRICITY.
2. GAS.

**CHAPTER 1**

**ELECTRICITY**

**SECTION**

19-101. To be furnished by Rockwood Electric Utility.

**19-101. To be furnished by Rockwood Electric Utility.** Electricity shall be provided to the City of Kingston and its inhabitants by the Rockwood Electric Utility. The rights, powers, duties, and obligations of the City of Kingston and its inhabitants, are stated in the agreements between the parties.<sup>1</sup> (2009 Code, § 19-101)

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<sup>1</sup>The agreements are of record in the office of the city clerk.

**CHAPTER 2****GAS****SECTION**

19-201. To be furnished under franchise.

**19-201. To be furnished under franchise.** Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.<sup>1</sup> (2009 Code, § 19-201)

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<sup>1</sup>Ord. #00-11-7, Nov. 2000 is the franchise agreement and is of record in the office of the city clerk.

**TITLE 20****MISCELLANEOUS****CHAPTER**

1. REGULATING USE OF BOAT LAUNCHING RAMP.
2. DEALING IN ANTIQUE OR SCRAP JEWELRY.

**CHAPTER 1****REGULATING USE OF BOAT LAUNCHING RAMP****SECTION**

- 20-101. Permit required.  
20-102. Permit fee.

**20-101. Permit required.** It shall be unlawful for any person, corporation, company or entity to use the launching ramp at the Kingston City Park for the purpose of launching any boat in excess of thirty feet (30') in length, other than pontoon boats, without having first obtained a permit. (2009 Code, § 20-101)

**20-102. Permit fee.** The Parks and Recreation Director of the City of Kingston, Tennessee, is hereby authorized to issue launch permits upon satisfying himself that the use of the launch ramp will not endanger the underlying structure of the launch ramp or unduly limit the use of the launch ramp by others and upon the payment of a permit fee in the amount of fifty dollars (\$50.00). The parks and recreation director is hereby authorized to make reasonable regulations regarding the scope of any such launch permit issued. (2009 Code, § 20-102)

## CHAPTER 2

### DEALING IN ANTIQUE OR SCRAP JEWELRY

#### SECTION

20-201. Dealers shall register.

20-202. Holding period for items purchased.

20-203. Log or register requirements.

20-204. Tag requirements.

20-205. Violations and penalty.

**20-201. Dealers shall register.** (1) Any person, firm, or corporation purchasing or otherwise dealing in antique or used silverware and jewelry and timepieces or scrap jewelry and/or precious metals, where the said purchase is for resale in its original form or as changed by remounting, melting, reforming, remolding, or recasting or for resale as scrap or in bulk, shall be referred to as a dealer ("dealer") for purposes of this chapter and shall be required to register with the Chief of Police of the City of Kingston.

(2) The provisions of this chapter shall not be applicable to any person, firm or corporation purchasing or otherwise dealing solely in coins. (2009 Code, § 20-301)

**20-202. Holding period for items purchased.** It shall be unlawful for any person or corporation engaging in the activity described in § 20-201 hereof to sell, exchange, barter or remove from the place in which said business is conducted, or to hide same from view or inspection by a law enforcement officer, or to change the form of any of said items by remounting, melting, cutting up, or otherwise changing the form of any of said items for a period of thirty (30) days from the date and time of said purchase. (2009 Code, § 20-302)

**20-203. Log or register requirements.** Every person or corporation dealing in the items described in § 20-201 shall keep a written or electronic log and shall enter in said log a clear and accurate description of any items of jewelry or precious metals or silverware purchased, the date and time of purchase, the amount of money paid for said items and the name, race, and residence address of the seller. The seller shall sign and the dealer shall retain a written acknowledgment of the sale of each item sold. The dealer shall require the seller to present and the dealer shall verify the identity of the seller. Acceptable items of identification are one (1) of the following, which shall be listed in the log of the transaction:

- (1) A state-issued driver's license;
- (2) A state-issued identification card;
- (3) A passport;
- (4) A valid military identification;

- (5) A nonresident alien border crossing card;
- (6) A resident alien border crossing card; or
- (7) A United States immigration and naturalization service identification.

For each day the dealer shall transact business of the type described in § 20-201, he shall deliver the Chief of the Kingston City Police a copy of the log concerning that day's business, and said copy of said log shall be delivered by noon of the day following the date of said transaction. The original log shall be carefully preserved without alteration and shall at all times be open to the inspection of the Kingston City Police Chief, any police officer of the city, and the Roane County Sheriff or any deputy sheriff. (2009 Code, § 20-303)

**20-204. Tag requirements.** In addition to the log requirements set forth in § 20-203, every person or corporation dealing in the items described herein shall place a tag with identifying number on each article or item purchased, placing the name, race, and residence and address of the seller on said tag. The number on the tag shall be placed in the log or register mentioned above beside the seller's name. There shall be no duplicate numbers placed on articles purchased. Tags shall remain attached to the article purchased for the same period required in § 20-202. (2009 Code, § 20-304)

**20-205. Violations and penalty.** Every person, firm, or corporation, their agents, or employees who shall violate any of the provisions of this chapter shall, upon conviction thereof, be fined a sum of not less than fifty dollars (\$50.00). (2009 Code, § 20-305)

ORDINANCE NO. 23-06-13-01

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF KINGSTON, TENNESSEE.

WHEREAS some of the ordinances of the City of Kingston are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the City Council of the City of Kingston, 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 "Kingston Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KINGSTON, TENNESSEE, THAT:

**Section 1. Ordinances codified.** The ordinances of the City of Kingston 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 "Kingston Municipal Code," hereinafter referred to as the "Municipal Code."

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in section 3 below.

**Section 3. Ordinances saved from repeal.** The repeal provided for in section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding,

standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

**Section 4. Continuation of existing provisions.** Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.<sup>1</sup>

**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.



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 city council, 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 city clerk'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.

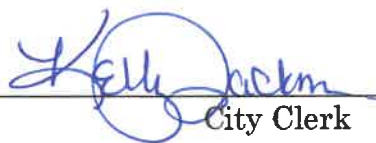
Passed 1st reading June 13, 2023

Passed 2nd reading July 11, 2023



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Mayor



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City Clerk

APPROVED AS TO FORM:



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City Attorney