

**THE
LIVINGSTON
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

July 2009

Change 1
September 8, 2020

TOWN OF LIVINGSTON, TENNESSEE

MAYOR

Curtis Hayes

VICE MAYOR

Ken Dodson

ALDERMEN

John Clough

Kelly Coleman

Rex Dale

David Langford

Chris Speck

RECORDER

Curtis Hayes

PREFACE

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

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

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

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

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

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

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

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

The able assistance of the codes team: Emily Keyser, Linda Winstead, Nancy Gibson, and Doug Brown, Administrative Specialists, is gratefully acknowledged.

Melissa Ashburn
Codification Consultant

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

1. Four (4) aldermen shall constitute a quorum for purposes of transacting business and adopting ordinances. (Sec. 4, C-18)
2. Ordinances shall be passed on two (2) separate readings at two (2) separate meeting dates.
3. A majority vote of a quorum is required for both readings, and the ordinance is considered adopted as of the date of the second (2nd) reading and affirmative vote.
4. Penalty provisions and ordinances addressing specific subject matters may require publication prior to passage.

*Change 1
September 8, 2020*

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

¹Charter references

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

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²For provisions in the charter with respect to the board of mayor and aldermen and the following, see the sections indicated:

- (1) Appoints and discharges personnel: § 4.
- (2) Correction of tax assessments: § 11.
- (3) Elections for, term of office, etc.: §§ 13 and 22.
- (4) Fixes compensation of mayor: § 3.
- (5) General powers: §§ 1 and 5.
- (6) Maintenance of streets, etc.: Footnote to § 4.
- (7) Mayor's general powers and duties with respect to: § 3.
- (8) Miscellaneous ordinance powers: § 5.
- (9) Oaths and bonds: § 25.
- (10) Presiding officer: § 3.
- (11) Property conveyances: § 10.
- (12) Qualifications, oath, compensation and tenure: § 4.
- (13) Quorum: § 4.
- (14) Restriction on incurring debts for current expenses: § 24.
- (15) Special sessions: § 3.
- (16) Trial of aldermen for malfeasance or misfeasance: § 4.
- (17) Trial of mayor for malfeasance or misfeasance: § 3.

(continued...)

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Adoption of ordinances.
- 1-105. Alderman pay.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 6:00 P.M. on the first Monday of each month at the city hall. (1989 Code, § 1-101, as replaced by Ord. #2013-5-4, June 2013 *Ch1_09-08-20*)

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder, and approved or corrected by the board.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the board of mayor and aldermen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1989 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with special rules in the charter or adopted by the board and set out in this code. (1989 Code, § 1-103)

1-104. Adoption of ordinances. All ordinances shall be read and adopted on two readings on different days before taking effect. Actual reading of a proposed ordinance may be waived by the board when each member has been furnished a copy thereof. (1989 Code, § 1-104)

²(...continued)

- (18) Vacancies in board: § 4.
- (19) Voting power of mayor: § 3.

1-105. Alderman pay. Alderman shall be paid two hundred dollars (\$200.00) per month. (Ord. #2005-6-1, July 2005)

CHAPTER 2

MAYOR¹

SECTION

- 1-201. Generally supervises city's affairs.
- 1-202. Executes city's contracts.
- 1-203. Authority to dismiss employees.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all city affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1998 Code, § 1-201)

1-202. Executes city's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1998 Code, § 1-202)

1-203. Authority to dismiss employees. The mayor may dismiss any city employee subject to the approval of the board of aldermen. (Ord. #2005-6-1, July 2005, modified)

¹For provisions in the charter with respect to the mayor and the following, see the sections indicated:

- (1) Attests ordinances and proceedings of the board: § 23.
- (2) Execution of deeds: § 10.
- (3) Financial reports: § 9.
- (4) Tenure, qualifications, compensation and general powers and duties: § 3.

CHAPTER 3**RECORDER¹****SECTION**

1-301. To be bonded.

1-302. To keep ordinance book.

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

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and aldermen. (1989 Code, § 1-301)

1-302. To keep ordinance book. The recorder shall keep an ordinance book in which he shall keep the original copy of all ordinances passed by the board of mayor and aldermen. (1989 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the city which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. The recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1989 Code, § 1-303)

¹For provisions in the charter with respect to the recorder and the following, see the sections indicated:

- (1) Appointment and compensation: §§ 3, 5(21) and 7.
- (2) Bond: §§ 9 and 25.
- (3) Collection of taxes: § 8.
- (4) General provisions with respect to the recorder: § 7.
- (5) Mayor may fill vacancy in office of appointed recorder: § 3.
- (6) Mayor to serve ex-officio as recorder: § 3.

CHAPTER 4

CODE OF ETHICS¹

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. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.

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

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

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

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

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

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

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

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

A brief synopsis of each of these laws appears in Appendix A of this municipal code.

1-410. Ethics complaints.

1-411. Violations.

1-401. Applicability. This chapter is the code of ethics for personnel of the Town of Livingston. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal," "municipality," and "Town of Livingston" include these separate entities. (Ord. #2007-1-3, Feb. 2007)

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #2007-1-3, Feb. 2007)

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 himself¹ from voting on the measure. (Ord. #2007-1-3, Feb. 2007)

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

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

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. (Ord. #2007-1-3, Feb. 2007)

1-405. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the Town of Livingston:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #2007-1-3, Feb. 2007)

1-406. 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. (Ord. #2007-1-3, Feb. 2007)

1-407. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the Town of Livingston. (Ord. #2007-1-3, Feb. 2007)

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the town of Livingston. (Ord. #2007-1-3, Feb. 2007)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the

performance of any affirmative duty of the municipal position or conflicts with any provision of the Town of Livingston's charter or any ordinance or policy. (Ord. #2007-1-3, Feb. 2007)

1-410. Ethics complaints. (1) The city attorney is designated as the ethics officer of the Town of Livingston. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #2007-1-3, Feb. 2007)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the Town of Livingston'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. (Ord. #2007-1-3, Feb. 2007)

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

1. STREET COMMISSIONER.
2. PARKS AND RECREATION BOARD.

CHAPTER 1**STREET COMMISSIONER**¹**SECTION**

- 2-101. Appointment, compensation, oath and bond.
- 2-102. Duties.

2-101. Appointment, compensation, oath and bond. The board of mayor and aldermen shall annually appoint and fix the compensation of a street commissioner. Before assuming his duties the street commissioner shall take an oath before the board to faithfully perform the duties of his office and shall be covered by a faithful performance bond in the sum of two thousand dollars (\$2,000.00). (1989 Code, § 1-401)

2-102. Duties. The street commissioner shall be responsible to the board of mayor and aldermen for the proper maintenance and repair of all city streets, alleys and sidewalks. He shall keep the board informed of the condition of city streets, etc.; shall make timely recommendations for street improvements; and, shall supervise city street labor. (1989 Code, § 1-402)

¹For provisions in the charter authorizing his appointment and compensation, see §§ 3 and 5(21).

CHAPTER 2

PARKS AND RECREATION BOARD

SECTION

2-201. Town to designate properties.

2-202. Authority to create advisory board, members, and terms.

2-201. Town to designate properties. Designate properties located on Chestnut Street declared on tax maps to be Livingston City Park and Recreational Facilities whereas the Town of Livingston will appropriate funds in the budget for maintenance and operation of said park. (Ord. #2011-1-1, Feb. 2011 *Ch1_09-08-20*)

2-202. Authority to create advisory board, members, and terms. The Livingston Parks and Recreation Board shall consist of five (5) persons, at least two (2) from school staff appointed by the Mayor of Livingston. Livingston Parks and Recreation member term is five (5) years, and members shall serve without pay. (Ord. #2011-1-1, Feb. 2011 *Ch1_09-08-20*)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

1. COURT ADMINISTRATION.
2. WARRANTS, SUMMONSES AND SUBPOENAS.
3. BONDS AND APPEALS.

CHAPTER 1

COURT ADMINISTRATION

SECTION

- 3-101. Creation, jurisdiction, etc.
- 3-102. Maintenance of docket.
- 3-103. Trial and disposition of cases.
- 3-104. Imposition and remission of fines and costs.
- 3-105. Disposition and report of fines, penalties, and costs.
- 3-106. Disturbance of proceedings.

3-101. Creation, jurisdiction, etc. The officer designated by the municipal charter to handle judicial matters within the municipality shall preside over the city court, and shall be known as the city judge. (1989 Code, § 1-601)

3-102. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and

¹For provisions in the charter with respect to the following, see the sections indicated:

- (1) Board's power to impose fines, forfeitures, etc.: § 5(16).
- (2) Charter and ordinances as evidence. § 23.
- (3) Commission to the workhouse. § 5(20).
- (4) Recorder's judicial powers and duties, etc. § 7.
- (5) Remission of fines and costs, etc. § 3.

For provisions requiring a policeman to attend the city court and serve its process, etc., see chapter 5 in this title.

whether collected; whether committed to workhouse; and all other information that may be relevant. (1989 Code, § 1-602)

3-103. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1989 Code, § 1-606)

3-104. Imposition and remission of fines and costs. In no event may the city court impose a fine for violation of a penal ordinance of municipal or state law in excess of fifty dollars (\$50.00) except for moving traffic violations or otherwise set out by Tennessee Code Annotated, § 6-54-308 and as thereafter amended from time to time which is hereby incorporated into the Municipal Code of the Town of Livingston by reference thereto.

All fines and costs shall be imposed and recorded by the city judge on the city court docket in open court. After any fine and costs have been so imposed and recorded, the city judge shall have no power to remit or release the same or any part thereof. (1989 Code, § 1-608, as amended by Ord. #1996-2, May 1996, modified)

3-105. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1989 Code, § 1-611)

3-106. 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. (1989 Code, § 1-612)

CHAPTER 2

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-201. Issuance of arrest warrants.

3-202. Issuance of summonses.

3-203. Issuance of subpoenas.

3-201. Issuance of arrest warrants.¹ Only the city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1989 Code, § 1-603)

3-202. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1989 Code, § 1-604)

3-203. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be enable him to equitably dispose of matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1989 Code, § 1-605)

¹State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

CHAPTER 3

BONDS AND APPEALS

SECTION

3-301. Appearance bonds authorized.

3-302. Appeals.

3-303. Bond amounts, conditions, and forms.

3-301. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1989 Code, § 1-607)

3-302. 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, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1989 Code, § 1-609, modified)

3-303. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in the sum of one hundred dollars (\$100.00) and shall be conditioned that the defendant shall appear for trial before city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made:

- (1) In the form of a cash deposit; or
- (2) By any corporate surety company authorized to do business in Tennessee; or
- (3) By two (2) private persons who individually own real property of sufficient value which is located within the county. No other type bond shall be acceptable. (1989 Code, § 1-610)

¹State law reference

Tennessee Code Annotated, § 16-18-307.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

SOCIAL SECURITY

SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Personnel excluded from coverage.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this municipality to provide for the employees and officials of the municipality, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old-age and survivors insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the municipality shall take such action as may be required by applicable state and federal laws or regulations. (1989 code, § 1-801)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1989 Code, § 1-802)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1989 Code, § 1-803)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1989 Code, § 1-804)

4-105. Records and reports to be made. The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1989 Code, § 1-805)

4-106. Personnel excluded from coverage. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the municipality. There is further excluded from this chapter any authority to make any agreement with respect to any position, or any employee or official, compensation for which is on a fee basis or any position, or any employee or official not authorized to be covered by applicable state or federal laws or regulations. (1989 code, § 1-806)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-201. Purpose.
- 4-202. Coverage.
- 4-203. Standards authorized.
- 4-204. Variances from standards authorized.
- 4-205. Administration.
- 4-206. Funding the program.
- 4-207. Severability.

4-201. Purpose. The City of Livingston is electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

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

(a) Top management commitment and employment involvement;

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

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

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

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

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

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

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

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of the program plan, including the

opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of the program plan. (Ord. #2003-7-1, August 2003, as replaced by Ord. #2013-2-1, April 2013 *Ch1_09-08-20*, and Ord. #2020-5-1, June 2020 *Ch1_09-08-20*)

4-202. Coverage. The provisions of the occupational safety and health program plan for employees of the City of Livingston shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #2003-7-1, August 2003, as replaced by Ord. #2013-2-1, April 2013 *Ch1_09-08-20*, and Ord. #2020-5-1, June 2020 *Ch1_09-08-20*)

4-203. Standards authorized. The Occupational Safety and Health standards adopted by the City of Livingston are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3. (Ord. #2003-7-1, August 2003, modified, as replaced by Ord. #2013-2-1, April 2013 *Ch1_09-08-20*, and Ord. #2020-5-1, June 2020 *Ch1_09-08-20*)

4-204. Variances from standards authorized. Upon written application of the Commissioner of the Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be accordance with the Rules of Tennessee department of Labor and Workforce Development Occupational Safety and Health., VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #2003-7-1, August 2003, as replaced by Ord. #2013-2-1, April 2013 *Ch1_09-08-20*, and Ord. #2020-5-1, June 2020 *Ch1_09-08-20*)

4-205. Administration. For the purposes of this ordinance, codes enforcement officer is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with the Rules of Tennessee

Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (Ord. #2003-7-1, August 2003, modified, as replaced by Ord. #2013-2-1, April 2013 *Ch1_09-08-20*, and Ord. #2020-5-1, June 2020 *Ch1_09-08-20*)

4-206. Funding the program. Sufficient funds for the administering and staffing the Program Plan pursuant to this ordinance shall be made available authorized by the City of Livingston. (Ord. #2003-7-1, August 2003, as replaced by Ord. #2013-2-1, April 2013 *Ch1_09-08-20*, and Ord. #2020-5-1, June 2020 *Ch1_09-08-20*)

4-207. Severability. If any section, sub-section, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof. (Ord. #2003-7-1, August 2003, as replaced by Ord. #2013-2-1, April 2013 *Ch1_09-08-20*, and Ord. #2020-5-1, June 2020 *Ch1_09-08-20*)

CHAPTER 3

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

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

4-301. Enforcement. The Chief Administrative Officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #_____, 19____)

4-302. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

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

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

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

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

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

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

(b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances. Expenses considered excessive won't be allowed.

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

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

(9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement. (Ord. #_____, 19____)

4-303. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the state of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #_____, 19____)

4-304. Administrative procedures. The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #_____, 19____)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

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

CHAPTER 1

REAL PROPERTY TAXES

SECTION

- 5-101. When due and payable.
- 5-102. When delinquent--penalty and interest.
- 5-103. Collection.

5-101. When due and payable. Taxes levied by the city against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1989 Code, § 6-101)

5-102. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes. (1989 Code, § 6-102)

¹For provisions in the charter with respect to the following, see the sections indicated:

- (1) Assets and liabilities of old corporation: § 21.
- (2) Correction of tax assessments: § 11.
- (3) Fines: § 7.
- (4) License taxes: §§ 5(11) and 5(12).
- (5) Payment of debts and expenses: § 5(3) and 24.
- (6) Privilege and poll taxes: § 5(2).
- (7) Property taxes: § 5(1).
- (8) Restriction on incurring debts: § 24.
- (9) Road taxes: Footnote to § 4.
- (10) School tax: § 18.
- (11) Special assessments: § 5(6).
- (12) State sales tax: Footnote to § 8.
- (13) Taxes generally: § 8.

5-103. Collection. In the collection of municipal taxes the recorder shall have all the authority and powers as are provided by state law for the collection of county taxes. (1989 Code, § 6-103)

CHAPTER 2

PRIVILEGE TAXES

SECTION

5-201. Tax levied.

5-202. License required.

5-201. 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 58) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by the said act. (1989 Code, § 6-201)

5-202. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (1989 Code, § 6-202)

CHAPTER 3**WHOLESALE BEER TAX****SECTION**

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, chapter 6, title 57. (1989 Code, § 6-301)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE¹ AND ARREST²

SECTION

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to see that law and order is maintained, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance in making arrests.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.
- 6-108. Emergency seizure of hazardous properties.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1989 Code, § 1-501)

6-102. Policemen to see that law and order is maintained, etc. Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1989 Code, § 1-502)

¹For provisions in the charter with respect to the following, see the sections indicated.

(1) Board's authority to establish, support and regulate a police department: §§ 5(8) and 5(21).

(2) Board's authority to provide for arrest and confinement of rioters, etc.: § 5(17).

(3) Marshal to take oath and issue process: § 6.

(4) Mayor's authority to make appointments to fill vacancies: § 3.

²For provisions relating to traffic citations, etc., see title 15 in this code.

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the mayor shall prescribe and shall carry a service pistol and billy club at all times while on duty. (1989 Code, § 1-503)

6-104. When policemen to make arrests.¹ Unless otherwise authorized or directed in this code or other applicable law, arrests of the person shall be made by a policeman 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 is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable and probable cause to believe the person has committed it. (1989 Code, § 1-504)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any male person to willfully refuse to aid a policeman in making a lawful arrest when such person's assistance is reasonably requested and necessary. (1989 Code, § 1-505)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city court is not immediately available and the alleged offender is not able to post the required bond he shall be confined. (1989 Code, § 1-506)

6-107. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing:

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1989 Code, § 1-507)

6-108. Emergency seizure of hazardous properties. The police department shall have the authority to temporarily seize properties that are determined to house controlled substances, hazardous materials, methamphetamine, and any and all other materials that pose a threat to the public, subject to the following conditions:

(1) That the discovery of said materials resulted from an arrest, arrest with a warrant, or execution of a search warrant;

¹For provisions relating to traffic citations, etc., see title 15 in this code.

(2) That the police department made a discovery of such materials or the probability of same;

(3) That the chief of the police department concurred in the finding of the danger to the community, and authorized the temporary seizure; and thereafter:

(4) That the seizure was reported to the mayor within (12) hours;

(5) That within forty eight (48) hours of the seizure the discovery is reported to a qualified law enforcement agency and request made for a thorough inspection of the premises to determine the existence or non-existence of said substances;

That the immediate seizure made after compliance with conditions (1) through (5) above shall be followed with the installation of appropriate fencing, barricades, and/or other obstacles to prevent public entrance to the property, and appropriate notice of the seizure by signs displayed prominently.

Said seizure shall expire after the passage of sixty (60) days;

Any action taken hereunder shall be reviewable by the general sessions court of Overton County, Tennessee. (Ord. #2004-10-1, Oct. 2004)

CHAPTER 2**WORKHOUSE**¹**SECTION**

- 6-201. County workhouse to be used.
- 6-202. Inmates to be worked.
- 6-203. Compensation of inmates.

6-201. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse. (1989 Code, § 1-701)

6-202. Inmates to be worked. All persons committed to the workhouse shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1989 Code, § 1-702)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines assessed against him. (1989 Code, § 1-703)

¹For provisions in the charter with respect to the workhouse, see §§ 5(16), 5(18) and 5(20).

TITLE 7**FIRE PROTECTION AND FIREWORKS**¹**CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. OPEN BURNING.
5. FIREWORKS.

CHAPTER 1**FIRE DISTRICT****SECTION**

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall include any and all properties located within the city limits, and all areas annexed in the future, and such other areas as may be designated by the mayor and board of aldermen, and any areas wherein the city has contracted fire protection services. (Ord. #2005-6-1, July 2005)

¹Municipal code reference

Building, utility and housing codes: title 12.

CHAPTER 2

FIRE CODE

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Modifications.
- 7-205. Gasoline trucks.
- 7-206. Location of gasoline pumps and tanks, etc.
- 7-207. Obstructions around fire hydrants.
- 7-208. Variances.
- 7-209. Violations.

7-201. Fire code adopted. A certain document, three (3) copies of which are on file in the office of the Town of Livingston, Tennessee's City Hall being marked and designated as the International Fire Code,¹ 2012 edition, including Appendix Chapter D as published by the International Code Council, be and is hereby adopted as the fire code of the Town of Livingston in the State of Tennessee regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the office of the Town of Livingston, Tennessee are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in § 7-202. (Ord. #2008-1-5, _____, 2008, modified, as replaced by Ord. #2014-7-5, July 2014 *Ch1_09-08-20*)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. (1989 Code, § 7-202, as amended by Ord. #2005-6-1, July 2005)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Livingston, Tennessee. (1989 Code, § 7-203)

¹Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

7-204. Modifications. The following sections are hereby revised:
Section 101.1. Titles. These regulations shall be known as the Fire Code for the Town of Livingston, hereinafter referred to as "this code."

Section 109.4. Insert: Misdemeanor, Fine \$50.00 per day. No limit to the number of days.

Section 111.4. Insert: \$50.00 to \$500.00.

Section 506.1 This section is hereby deleted and shall not be adopted by this ordinance.

The geographic limits referred to in certain sections of the 2012 International Fire Code are hereby established as follows:

Section 5704.2.9 .6.1 (geographic limits in which the storage of Class I and Class II liquids in aboveground tanks outside of buildings is prohibited): FIRE LIMITS

Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in aboveground tanks is prohibited): FIRE LIMITS

Section 5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): FIRE LIMITS

Section 6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): FIRE LIMITS (1989 Code, § 7-205, as replaced by Ord. #2014-7-5, July 2014 *Ch1_09-08-20*)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1989 Code, § 7-205)

7-206. Location of gasoline pumps and tanks, etc. It shall be unlawful for any person to erect, install, maintain, use or operate within, upon or under any street, sidewalk or public right of way within the city, any tank, pump, pipe line or other apparatus, equipment or machinery for the sale, distribution or storage of gasoline, kerosene, lubricating oil or any other volatile or inflammable liquid. (1989 Code, § 7-206)

7-207. Obstructions around fire hydrants. It shall be unlawful for any person to erect or maintain any sign or other obstruction of any kind or character within ten feet (10') of any fire hydrant. (1989 Code, § 7-207)

7-208. Variances. The chief of the fire department may recommend to the governing body variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the governing body. (1989 code, §§ 7-208 and 7-209)

7-209. Violations. Any person who shall violate any of the provisions of this chapter or code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken or who shall fail to comply with such an order as affirmed or modified by the governing body of the municipality or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1989 Code, § 7-209)

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure of members.
- 7-306. Chief responsible for training.
- 7-307. Equipment to be used only within corporate limits.
- 7-308. Chief to be assistant to state officer.

7-301. Establishment, equipment and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the governing body of the municipality. The volunteer fire department shall be composed of a chief appointed by the municipal governing body and such number of subordinate officers and firemen, in no event less than fourteen (14), as the chief shall appoint. (1989 Code, § 7-301)

7-302. Objectives. The volunteer fire department shall have as its objectives to prevent uncontrolled fires from starting; to prevent the loss of life and property in case a fire does start; to confine fire to the place of origin; and, to extinguish uncontrolled fires. (1989 Code, § 7-302)

7-303. Organization, rules and regulations. The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department. (1989 Code, § 7-303)

7-304. Records and reports. The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1989 Code, § 7-304)

7-305. Tenure of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the mayor and municipal governing body. However, so that adequate discipline may be maintained, the chief shall

¹For special privileges with respect to traffic, see title 9, chapter 1, in this code.

have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The chief may be suspended by the mayor but may be dismissed only by the municipal governing body. (1989 Code, § 7-305)

7-306. Chief responsible for training. The chief of the volunteer fire department shall be fully responsible for the training of the volunteer firemen, and the absolute minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1989 Code, § 7-306)

7-307. Equipment to be used only within corporate limits. No equipment of the volunteer fire department shall be used for fighting any fire outside the corporate limits.

However, in limited cases the mayor and fire chief, with board approval, are authorized to provide the fire protection to large businesses that employ at least five (5) employees on a contractual basis, providing they have an adequate water supply.

Furthermore, the fire chief is authorized, should an emergency occur, to use his judgment, for the department to render aid to neighboring fire departments when it can be done without incurring undue risk to the citizens and properties inside the city limits. (1989 Code, § 7-307, as amended by Ord. #2004-11-1, Dec. 2004)

7-308. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the volunteer fire department is designated as an assistant to the state commissioner of insurance and banking and is subject to all the duties and obligations imposed by Tennessee Code Annotated, chapter 102, title 68 and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1989 Code, § 7-308)

CHAPTER 4**OPEN BURNING**¹**SECTION**

7-401. Open burning unlawful.

7-402. Exceptions.

7-403. Violations--penalty.

7-401. Open burning unlawful. Subject to the exceptions hereinafter set out, it shall be unlawful for any person to cause, suffer, allow or permit open burning of refuse, garbage, trade and industrial waste, large commercial lots, flammables, combustibles or materials from construction or salvage operations, including incinerators. (Ord. #144, Feb. 1989)

7-402. Exceptions. Open burning as listed below may be conducted provided that no public nuisance is or will be created by the open burning:

(1) Incinerator that has been state, EPA approved and approved by the city, also.

(2) Fires used to burn off gardens, leaves, brush and small lots, between the hours of 9:00 A.M. to 4:00 P.M.

(3) Fires used for the cooking of food and for ceremonial or recreational purposes, including barbeques and outdoor fireplaces.

(4) Fires set for training and instruction of firemen or research in fire protection or prevention. (Ord. #144, Feb. 1989)

7-403. Violations--penalty. Any person or persons violating this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined under the general penalty clause of this code. (Ord. #144, Feb. 1989)

¹Municipal code reference

Property maintenance regulations: title 13.

CHAPTER 5

FIREWORKS

SECTION

7-501. Sale and distribution of fireworks.

7-502. Use of fireworks indoors prohibited.

7-501. Sale and distribution of fireworks. Except as hereinafter provided, fireworks may be offered for sale, sold at retail, stored, distributed or used in the Town of Livingston, provided that all vendors (person, corporations, business proprietor, etc.) must obtain an annual permit from the town and pay a fee of five hundred dollars (\$500.00) per calendar year. Failure to obtain the permit and pay the fee may result in a penalty of double permit fee plus court costs. (Ord. #156, Feb. 1991)

7-502. Use of fireworks indoors prohibited. Indoor fireworks special effects displays are prohibited. (Ord. #156, Feb. 1991)

TITLE 8**ALCOHOLIC BEVERAGES****CHAPTER**

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

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

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

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the Town of Livingston except as provided by Tennessee Code Annotated, title 57. (Ord. #2008-7-1, July 2008, as replaced by Ord. #2018-9-1, Oct. 2018 **Ch1_09-08-10**, and Ord. #2018-11-3, Dec. 2018 **Ch1_09-08-20**)

8-102. Application for certificate.¹ Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor or vice mayor, a request in writing shall be filed with the recorder, giving the following information:

- (1) Name, legal age and address of the applicant.
- (2) Number of year's legal residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten 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. (Ord. #2008-7-1, July 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

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 Town of Livingston and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages. (Ord. #2008-7-1, July 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-104. Action on application. Every application for a certificate of good moral character shall be referred to the chief of police for investigation and to the town attorney for review, each of whom shall submit his or her findings to mayor within thirty (30) days of the date each application was filed. Upon receipt of a favorable investigation a certificate of good moral character will be issued to the applicant, which shall be signed by the mayor or vice mayor. (Ord. #2008-7-1, July 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-105. Applicant 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

¹State Law reference

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

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. (Ord. #2008-7-1, July 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-106. Number of retail licenses to be held by retailer. 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. (Ord. #2008-7-1, July 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-107. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the Town of Livingston except at locations zoned for that purpose. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-108. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the Town of Livingston except on the ground floor thereof. Each such store shall have one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-109. Limitation on number of retailers. Unlimited retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-110. Sales for consumption on-premises. No alcoholic beverages shall be sold for consumption on the premises of a retail seller. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-111. **Radios, amusement devices and seating facilities prohibited in retail establishments.** No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-112. **Inspection fee.** The Town of Livingston hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the Town of Livingston, Tennessee. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-113. **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 Livingston, Tennessee. It is the intent of the Town of Livingston Board of Mayor and Aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the Town of Livingston, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-114. **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 Town of Livingston 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 Town of Livingston, Tennessee, of alcoholic beverages for consumption on the premises where sold. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-115. **Annual privilege tax to be paid to the recorder.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Livingston, Tennessee, shall remit annually to the recorder 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. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-116. 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 Town of Livingston, Tennessee, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding § 8-216 of the ordinances of the Town of Livingston, Tennessee, qualify to receive a beer permit from the Town of Livingston upon compliance of all of the Town of Livingston's beer permit requirements. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-117. 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. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-118. 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 town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-10*, and replaced by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

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. Limitation on number of permits.
- 8-211. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-212. Revocation or suspension of beer permits.
- 8-213. Civil penalty in lieu of revocation or suspension.
- 8-214. Loss of clerk's certification for sale to minor.
- 8-215. Violations and penalty.
- 8-216.--8-223. Deleted.

8-201. Beer board established. (1) There is hereby established a beer board to be composed of seven (7) members to be appointed by the board of aldermen for four (4) year terms. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. A member whose terms has expired shall continue to serve until his or her successor is appointed in the manner as herein provided.

(2) In the event of death or resignation of a board member prior to the expiration of his or her term, a successor shall be appointed for the unexpired term in the same manner as the deceased or retiring board member was appointed, and shall take office immediately upon appointment. Such successor board member shall be eligible for re-appointment for a full term.

(3) No person shall be appointed to the Town of Livingston Beer Board unless he or she is a resident of the Town of Livingston.

(4) Members of the Town of Livingston Beer Board shall administer the law governing alcoholic beverages as enacted by the State of Tennessee and the Town of Livingston. The Town of Livingston Beer Board shall have no legislative powers.

(5) The board of aldermen may terminate the beer board by resolution. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

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 Town of Livingston's 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 an adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place (Ord. #2008-9-1, Oct. 2008, as amended by Ord. #2008-11-1, Dec. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The records 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. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

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. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-205. Powers and duties of the beer board. 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. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

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. (Ord. #2008-9-1, Oct. 2008, as amended by Ord. #2008-11-1, Dec. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture

beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Livingston. Each applicant must be a person of good moral character and he or she must certify that he or she has read and is familiar with the provisions of this chapter. (Ord. #2008-9-1, Oct. 2008, as amended by Ord. #2008-11-1, Dec. 2008, and replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100 .00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town of Livingston, 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. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

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. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-210. Limitation on number of permits. There will be no limit on the number of licenses for the sale of beer to be issued. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the Town of Livingston at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-211. 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.

(2) Make or allow the sale of beer between the hours of 3:00 A.M. and 8:00 A.M. on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays and Saturdays, and between the hours of 3:00 A.M. and 10:00 A.M. on Sundays.

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

(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.

(7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 ***Ch1_09-08-20***, and Ord. #2018-11-3, Dec. 2018 ***Ch1_09-08-20***, and amended by Ord. #2019-11-1, Dec. 2019 ***Ch1_09-08-20***)

8-212. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his or her 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. (Ord. #2008-9-1, Oct. 2008, as replaced

by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-213. 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. 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 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 town may impose. (Ord. #2008-9-1, Oct. 2008, as amended by Ord. #2008-11-1, Dec. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-214. Loss of clerk's certification for sale to minor. 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. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-215. 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. (Ord. #2008-9-1, Oct. 2008, as replaced by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

8-216.--8-223. Deleted. (Ord. #2008-9-1, Oct. 2008, as deleted by Ord. #2018-9-1, Oct. 2018 *Ch1_09-08-20*, and Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

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. (as added by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

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

- (1) Name, age and address of the applicant.
- (2) Number of years residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
- (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store. The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. (as added by Ord. #2018-11-3, Dec. 2018 *Ch1_09-08-20*)

CHAPTER 4

SPECIAL EVENTS

SECTION

8-401. Special events permits.

8-401. Special events permits. A permit to serve wine and/or beer may be obtained from the city clerk for special events not to exceed three (3) days in duration. An applicant for a special events permit must meet all requirements for an on premise beer permit except such an event may be permitted without being located in a permanent structure, and shall not have to comply with § 8-102 of this code. In addition to a facilities rental fee, a special events permit fee in the amount of one hundred dollars (\$100.00) per twenty-four (24) hour period shall be paid to the city clerk upon application for such permit. A special events permit holder shall not be required to pay the privilege tax established in § 8-103 of this code. Special events permits may only be issued to bona fide charitable, nonprofit or political organizations as defined in Tennessee Code Annotated, § 57-4-102, and as subsequently amended, and to the Town of Livingston. Special events permits shall not be issued for the sale, storage or manufacture of wine and/or beer on any public property, right-of-way or street, except at special events in Central Park and at Livingston/Overton County Chamber of Commerce sponsored events at locations designated by the Town of Livingston. (as added by Ord. #2019-2-3, March 2019 *Ch1_09-08-20*)

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

1. PEDDLERS, ETC.
2. TAXICABS.
3. POOL ROOMS.
4. SALE OF PRODUCTS CONTAINING EPHEDRINE,
PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE.

CHAPTER 1**PEDDLERS, ETC.¹****SECTION**

- 9-101. Permit required.
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- 9-112. Reapplication.
- 9-113. Expiration and renewal of permit.
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9-101. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1989 Code, § 5-401)

9-102. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to

¹For privilege tax provisions, etc., see title 5 in this code.

bona fide charitable, religious, patriotic, or philanthropic organizations. (1989 Code, § 5-402)

9-103. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- (5) The length of time for which the right to do business is desired.
- (6) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
- (7) A recent photograph of the applicant which picture shall be approximately two inches (2) square showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (8) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.
- (9) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.
- (10) The last cities or towns, at least three (3) preferably, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.
- (11) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1989 Code, § 5-403)

9-104. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation of the applicant's moral reputation and business responsibility, who shall report to the city recorder his findings within seventy-two (72) hours.

(2) If as a result of such investigation, the chief of police reports the applicant's moral reputation and/or business responsibility to be unsatisfactory

and his reasons therefor, the city recorder shall thereupon notify the applicant that his application is disapproved and that no permit will be issued.

(3) If such investigation indicates that the moral reputation and business responsibility of the applicant are satisfactory, upon payment of all applicable privilege taxes¹ the city recorder shall deliver to the applicant a permit. The city recorder shall keep a permanent record of all permits issued. (1989 Code, § 5-404)

9-105. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the municipal governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1989 Code, § 5-405)

9-106. Bond. Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of five hundred dollars (\$500.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to the order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1989 Code, § 5-406)

9-107. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks, or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard

¹For provisions relating to privilege taxes, see title 5 in this code.

upon the adjacent streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1989 Code, § 5-407)

9-108. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1989 Code, § 5-408)

9-109. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1989 Code, § 5-409)

9-110. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1989 Code, § 5-410)

9-111. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the municipal governing body after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit.

(b) Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(c) Any violation of this chapter.

(d) Conviction of any crime or misdemeanor.

(e) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for the hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1989 Code, § 5-411)

9-112. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months shall have elapsed since the last revocation. (1989 Code, § 5-412)

9-113. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires but shall automatically be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. (1989 Code, § 5-413)

9-114. Special provisions for "transient dealers." (1) All transient dealers as hereinafter defined by paragraph (a) of this section shall pay a license based on the following schedule:

<u>If Anticipated Sales Are</u>	
\$10,000 or less	\$100.00
More than \$10,000 but less than \$25,000	\$200.00
More than \$25,000 but less than \$50,000	\$300.00
More than \$50,000 but less than \$100,000	\$400.00
Over \$100,000	\$500.00
Plus 1/10th of 1% of gross receipts, less \$100,000.	

(a) **Definitions.** The words "transient dealers" for the purpose of this section shall mean and include all persons, both principals and agents who engage or conduct in this town either in one locality or in traveling from place to place, a temporary or transient business of selling or soliciting orders for the sale of goods, wares, or merchandise with the intention of continuing in said business in said town for a period of not more one hundred eight (180) days, and who rent, lease, use or occupy, either in whole or in part, for the purpose of carrying on such business use, any room, building, area within the Town of Livingston, or other public or privately-owned building, any lot or parcel of land, any motor vehicle including trucks and semi-trailers for the exhibition and sale of such goods, wares and merchandise, but the provisions of this section shall not apply to sales of food or agricultural produce, peddlers, or sales

of novelties otherwise licensed under this code and where stock or anticipated sales are valued or anticipated at two thousand dollars (\$2,000.00) or to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares, or merchandise for future delivery in interstate commerce, where either no measurements or design specifications are made or prepared in the town, or where no payment or deposit is collected in the town as a condition for the placement of orders, or where no license may be collected under the provisions of the constitution or laws of the United States, nor to sales of goods, wares or merchandise on the grounds of any agricultural society during the continuance of any annual fair held by such society, nor any sales by societies acting for charities, religious or public purposes, nor to any yard or rummage sale.

(b) Application. At least twenty (20) days prior to holding of such sale or solicitation, every such transient dealer shall furnish to the recorder of the Town of Livingston a verified license application setting out the following:

(i) Name and address of the applicant and also the name of the true owner if the applicant is not such true owner of the goods, wares or merchandise to be sold;

(ii) Name, location and time of the proposed sale or solicitation;

(iii) Inventory of the goods, wares or merchandise, on hand and on order, which the applicant intends to offer for sale at such sale. The inventory shall show the quantity, kind or grade of each item, the wholesale cost thereof, the price at which each item is proposed to be sold, and the total wholesale and retail value of the inventory based on the foregoing, and if sales are to be made other than from inventory, a copy of the catalogue or other sales materials, and/or a listing of the samples to be displayed.

(iv) A statement of the amount of gross receipts realized from each sale conducted in the Town of Livingston by applicant, and the date(s) thereof, if such sale was within the preceding five (5) years.

(v) Address of any permanent place of business in the State of Tennessee, or, if there be no permanent place of business in the State of Tennessee, a copy of a certificate of the Secretary of the State of Tennessee evidencing the fact that the dealer has qualified to do business in Tennessee and the name and address of its agent for the service of process in the state.

(vi) Such other information as the recorder may prescribe.

(c) Deposits and bonds. Every applicant for a transient dealer's license shall execute and file with the recorder a good and sufficient bond in the sum of five thousand dollars (\$5,000.00) or ten percent (10%) of

anticipated sales, whichever is greater, with the surety thereon a surety company authorized to do business in the State of Tennessee approved by said recorder, and shall be payable to the Town of Livingston to the extent that any taxes or fines as determined by the recorder of the town to be due are not paid, and upon judicial determination, to those authorized to file suit thereunder, and shall be conditioned upon faithful observance of all the conditions of this chapter, and the payment of city, county and state license, sales, use, income or occupational license taxes due or to be withheld and paid by the licensee hereunder, and shall also indemnify any purchaser at such sale who suffers any loss by reasons of defective merchandise or any misrepresentation. Said bond shall also provide that the Town of Livingston, Overton County, and State of Tennessee may file suit in their own name against the licensee and/or said surety for claims arising from such a sale. Said bond shall also provide that it shall continue in effect for one year after the termination of the sale for which it is made and until all actions are concluded and the judgment or judgments, if any, have been paid and fully satisfied, or the amount of the bond exhausted by such payments. This bond shall be in addition to all deposits required under other ordinances of the town, including but not limited to the sales and use tax ordinances. The above bond and certificate of qualification to do business in Tennessee shall be public record open to examination upon request.

(d) Reports of sales. All transient dealers shall make a verified sales report within seven (7) days of the close of business.

(e) No sales of goods, wares, or merchandise shall be made on Sunday by a transient dealer licensed hereunder unless otherwise permitted by law.

(f) A transient dealer 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, manufacturer's, wholesale, cancelled order, or misfit sale or closing out, or a sale of any goods damaged by smoke, fire or water otherwise, unless before so doing he shall state in writing under oath to the Recorder of the Town of Livingston at the time he makes application for a license all the facts relating to the reason and character of such special sales, so advertised, held forth or represented, including a statement of the names of persons from who said goods, wares, or merchandise were purchased, and the date of delivery of same to the persons applying for license, the place where said goods, wares, or merchandise were taken last, and such details necessary to exactly locate and fully identify all goods, wares, or merchandise to be sold, and make such further disclosure to and give such information as may be required by the Recorder of the Town of Livingston. Any such transient dealer shall also include in said statement names and residences of the owners in whose interest the business is

conducted and whether conducted as an individual, firm, association or corporation.

(g) It shall be unlawful for any transient dealer to sell or exhibit for sale either at public or private sale any goods, wares or merchandise without first complying with the provisions of this section or to make any false statements in reference to the matter required in subsections (b) and (e) above, or to fail or refuse to comply with the requirements of any of the provisions of this section, and every person, whether principal or agent, who by circular, handbill, newspaper, poster, or in any manner advertises such sales as herein contemplated before proper license is issued to said transient dealer and before he has complied with the provisions of this section, shall be guilty of a violation of this section. Provided, however, that nothing in this section shall be construed as abridging or denying the right and power of the Board of Aldermen of the Town of Livingston to refuse or withhold the granting of any license or to revoke the same, if granted, to a transient dealer upon any hearing thereof when in the discretion of said board of aldermen on the basis of the disclosures as aforesaid, or from other information deemed by them sufficient, such action may be deemed necessary or proper to protect or safeguard the public from imposition, mischief or fraud.

(2) Nothing herein contained shall be construed to relieve any person or other legal entity from any license fee liability, tax liability, interest, penalty or forfeiture incurred as of the effective date. (1989 Code, § 5-414, modified)

9-115. Not applicable in certain events. Nothing in this chapter shall be applicable during fairs, festivals, or other similar events, that have been licensed and approved by the board of mayor and aldermen, that do not continue for more than five (5) days. However, peddlers and transient merchants shall not be permitted to block access or view of any permanent business, licensed to do business in the Town of Livingston, without the consent of the owner or manager of said business. (Ord. #2005-6-1, July 2005, modified)

CHAPTER 2

TAXICABS¹

SECTION

- 9-201. Taxicab franchise and privilege license required.
- 9-202. Requirements as to application and hearing.
- 9-203. Liability insurance required.
- 9-204. Revocation or suspension of franchise.
- 9-205. Mechanical condition of vehicles.
- 9-206. Cleanliness of vehicles.
- 9-207. Inspection of vehicles.
- 9-208. License and permit required for drivers.
- 9-209. Qualifications for driver's permit.
- 9-210. Revocation or suspension of driver's permit.
- 9-211. Drivers not to solicit business.
- 9-212. Parking restricted.
- 9-213. Drivers to use direct routes.
- 9-214. Taxicabs not to be used for illegal purposes.
- 9-215. Miscellaneous prohibited conduct by drivers.
- 9-216. Transportation of more than one passenger at the same time.

9-201. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1989 Code, § 5-501)

9-202. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other relative information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application, the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the governing body; and make a recommendation either to grant or refuse a franchise to the applicant. The

¹For privilege tax provisions, etc. see title 5 in this code.

governing body shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise, the governing body shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1989 Code, § 5-502)

9-203. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of ten thousand dollars (\$10,000.00) for bodily injury or death to any one (1) person, twenty thousand dollars (\$20,000.00) for injuries or death to more than one (1) person which are sustained in the same accident, and five thousand dollars (\$5,000.00) for property damage resulting from any one accident. The required insurance shall inure to the benefit of the municipality and any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a taxicab owner, operator or driver. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after twenty (20) days' written notice is given by the insurer or surety to the recorder of the municipality. (1989 Code, § 5-503)

9-204. Revocation or suspension of franchise. The governing body, after a public hearing, may revoke or suspend any taxicab franchise for repeated violations of this chapter or the traffic laws of the municipality by the taxicab owner or his drivers. (1989 Code, § 5-504)

9-205. Mechanical condition of vehicles. It shall be unlawful for any taxicab to operate in the municipality unless such taxicab is equipped with proper four (4) wheel brakes, front and rear lights, tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical functions shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1989 Code, § 5-505)

9-206. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary

condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1989 Code, § 5-506)

9-207. Inspection of vehicles. All taxicabs shall be inspected at least semi-annually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1989 Code, § 5-507)

9-208. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. The city taxicab driver's permit shall contain a good description of the driver; shall also contain his picture; and, shall at all times be conspicuously displayed by him in any taxicab he is driving. (1989 Code, § 5-508)

9-209. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is eighteen (18) years old or over and holds a state special chauffeur's license.
- (3) Is of sound physique, with good eyesight and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, or driving under the influence of an intoxicant or drug.
- (7) Is familiar with the state and local traffic laws. (1989 Code, § 5-509)

9-210. Revocation or suspension of driver's permit. The governing body, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of this chapter or for repeated violations of the traffic laws of the municipality. (1989 Code, § 5-510)

9-211. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1989 Code, § 5-511)

9-212. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1989 Code, § 5-512)

9-213. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1989 Code, § 5-513)

9-214. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1989 Code, § 5-514)

9-215. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage, or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet, and tranquility of the municipality in any way. (1989 Code, § 5-515)

9-216. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of the latter. Furthermore, no more than five (5) passengers shall be carried in the same vehicle at anyone time and not more than two (2) passengers shall be seated on the front seat of any cab while the same is in motion. (1989 Code, § 5-516)

CHAPTER 3

POOL ROOMS¹

SECTION

9-301. Hours of operation regulated.

9-302. Minors to be kept out; exception.

9-303. View from outside to be unobstructed.

9-304. Gambling, etc., not to be allowed.

9-301. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire within the corporate limits at any time on Sunday or between the hours of 12:00 midnight and 6:00 A.M. on any night. (1989 Code, § 5-601)

9-302. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables kept by a private person and used in private families. (1989 Code, § 5-602)

9-303. View from outside to be unobstructed. It shall be unlawful for any owner, keeper, or other person in charge of a billiard or pool room or public place where billiards or pool is allowed to be played, to have, keep, or maintain any character of screen or blind in front of or about the door, or any painted, frosted, or darkened window by which a clear view of the interior of such premises is or may be obstructed or prevented from the outside. (1989 Code, § 5-603)

9-304. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting or maintaining any place where pool tables or billiard tables are kept for public use or hire to permit any gambling or other unlawful or immoral conduct on such premises. (1989 Code, § 5-604)

¹For privilege tax provisions, etc., see title 5 in this code.

CHAPTER 4

**SALE OF PRODUCTS CONTAINING EPHEDRINE,
PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE****SECTION**

- 9-401. Sales limited.
- 9-402. Definitions.
- 9-403. Display of products.
- 9-404. Exceptions.
- 9-405. Retail establishments: violation and training.
- 9-406. Retail establishments: register required.
- 9-407. Penalty for violation.

9-401. Sales limited. No person shall sell or deliver, or attempt to sell or deliver, in any single retail sale, a package that contains more than one hundred (100) tablets of any product that contains any quantity of ephedrine, pseudoephedrine or phenylpropanolamine, or any number of packages that contain a combined total of three (3) or more grams of ephedrine pseudoephedrine, or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients. (Ord. #2004-9-1, ____, 2004)

9-402. Definitions. (1) The use of the terms "ephedrine," "pseudoephedrine," or "phenylpropanolamine" in this chapter shall include the salts, optical isomers, or salts of optical isomers of ephedrine, pseudoephedrine and phenylpropanolamine.

(2) The use of the term "retail establishment" in this chapter shall include any business entity and individual person who sells, offers for sale or attempts to sell any product containing ephedrine, pseudoephedrine or phenylpropanolamine at retail.

(3) The use of the term "consumer accessible shelving" in this chapter shall mean any area of a retail establishment other than a product display area behind a counter where the public is not permitted, or within a locked display case or within six feet (6') of a register located on a checkout counter. (Ord. #2004-9-1, ____, 2004)

9-403. Display of products. All packages of any product containing ephedrine, pseudoephedrine or phenylpropanolamine, whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall not be displayed and offered for sale in any retail establishment on consumer-accessible shelving. (Ord. #2004-9-1, ____, 2004)

9-404. Exceptions. This chapter shall not apply as follows:

- (1) To any product labeled pursuant to federal regulation for use only in children under twelve (12) years of age;
- (2) To any products that the state department of health, upon application of a manufacturer, determines has been formulated in such a way as to effectively prevent its use in the illicit manufacture of methamphetamine;
- (3) To any animal feed products containing ephedrine, or naturally occurring or herbal ephedra or extract of ephedra, pseudoephedrine, or phenylpropanolamine; and
- (4) To the sale or delivery of any product containing ephedrine, pseudoephedrine, or phenylpropanolamine pursuant to the lawful prescription of a person authorized by state law to prescribe such products. (Ord. #2004-9-1, ____, 2004)

9-405. Retail establishments: violation and training. Any person who is considered the general owner or operator of a retail establishment where products containing ephedrine, pseudoephedrine, or phenylpropanolamine are available for sale who violates this chapter shall not be penalized pursuant to this chapter if such person documents that an employee training program was in place to provide the employees with information on the local, state and federal regulations regarding ephedrine, pseudoephedrine and phenylpropanolamine, and that the employees had completed the training program. (Ord. #2004-9-1, ____, 2004)

9-406. Retail establishments: register required. (1) Any retail establishment that sells or delivers, or attempts to sell or deliver, to a person any product containing ephedrine, pseudoephedrine, or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall require such person to show proper identification and to sign a register.

(2) The register described in subsection (1) shall be created by any retail establishment that sells a product or products described in this chapter and shall require at least the following information:

- (a) The specific quantity of ephedra, pseudoephedrine, or phenylpropanolamine purchased;
- (b) The signature of the purchaser;
- (c) The name and residential or mailing address of the purchaser, other than a post office box number;
- (d) The number of the purchaser's motor vehicle operator's license or other proper identification at the time of the purchase;
- (e) A description of how the purchaser intends to use the substance;
- (f) The date of such purchase; and

(g) The signature of an employee of the retail establishment as witness to the purchase and identification of the purchaser.

(3) The retail establishment shall retain each original register for three (3) years in a readily presentable and readable manner, and present the register upon demand by any law enforcement officer or authorized representative of the district attorney general's office.

(4) As used in this section, "proper identification" means a valid motor vehicle operator's license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser.

(5) This section shall not apply to the sell or delivery of any product containing ephedrine, pseudoephedrine, or phenylpropanolamine by a licensed pharmacy upon a pharmacist making a good faith determination that the purchase of the product is for a legitimate medical purpose. (Ord. #2004-9-1, ____, 2004)

9-407. Penalty for violation. It is a civil offense to fail to comply with the foregoing regulations. Any violation of these sections is punishable by civil penalty of up to fifty dollars (\$50.00). Each day a violation continues shall constitute a separate offense. (Ord. #2004-9-1, ____, 2004)

TITLE 10**ANIMALS AND FOWLS****CHAPTER**

1. IN GENERAL.
2. DOGS.

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

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals running at large.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1989 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within three hundred feet (300') of any residence or place of business without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. Any person aggrieved by the health officer's decision in any such case may appeal the same to the municipal governing body. (1989 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1989 Code, § 3-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water,

shelter and ventilation are not adequate and sufficient for the preservation of its health, safe condition and wholesomeness for food if so intended. (1989 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1989 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise inhumanely abuse or injure any dumb animal or fowl. (1989 Code, § 3-106)

10-107. Seizure and disposition of animals running at large. Any animal or fowl found running at large in violation of this chapter may be seized by the health officer or by any police officer and confined in a suitable place provided or designated by the municipal governing body. If the owner is known he shall be notified by a postcard addressed to his last-known mailing address to appear within ten (10) days and redeem his animal or fowl by paying the pound costs or the same will be humanely destroyed or otherwise disposed of by the chief of police.

If the owner is not known a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. The notice shall notify the owner to appear within ten (10) days and redeem his impounded animal or fowl by paying the pound costs or the same will be humanely destroyed or otherwise disposed of by the chief of police. (1989 Code, § 3-107)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Running at large prohibited.
- 10-203. Certain dogs to be securely restrained.
- 10-204. Noisy dogs prohibited.
- 10-205. Seizure and disposition of dogs running at large.
- 10-206. Seizure and disposition of dogs suspected of being rabid.

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."¹ (1989 Code, § 3-201)

10-202. Running at large prohibited.² It shall be unlawful for any person knowingly or negligently to permit any dog owned by him or under his control to run at large within the corporate limits, without wearing a tag evidencing the registration and vaccination required in the preceding section. (1989 Code, § 3-202)

10-203. Certain dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog, whether vaccinated or not, which is known to be vicious or dangerous or any female dog in heat unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. Any dog described in this section which is found to be running at large and which cannot be safely taken up and impounded may be killed on the spot by the poundmaster, health officer, or any policeman. (1989 Code, § 3-203)

10-204. 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. (1989 Code, § 3-204)

10-205. Seizure and disposition of dogs running at large. The provisions of § 10-107 shall apply for any dog found running at large in violation of this chapter. However, in any event no dog shall be released from a pound

¹See §§ 68-8-101 through 68-8-113, Tennessee Code Annotated.

²See §§ 44-8-408, 68-8-103, and 68-8-106, Tennessee Code Annotated.

unless and until it has been registered, vaccinated and had a tag placed on its collar. (1989 Code, § 3-205)

10-206. Seizure and disposition 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 poundmaster, health officer, or chief of police may cause such dog to be seized and/or confined or isolated for observation for up to two (2) weeks. If such dog is found to be rabid, it will be humanely disposed of. If such dog is found not to be rabid it shall be released to its owner upon his payment of any expenses incurred by the town on his behalf. If upon reasonable notice the dog's owner refuses to pay such costs the dog shall be humanely destroyed or otherwise disposed of. (1989 Code, § 3-206)

TITLE 11**MUNICIPAL OFFENSES¹****CHAPTER**

1. MISDEMEANORS OF THE STATE ADOPTED.
2. ENUMERATED.
3. SMOKING IN PUBLIC FACILITIES PROHIBITED.

CHAPTER 1**MISDEMEANORS OF THE STATE ADOPTED****SECTION**

11-101. Misdemeanors of the state adopted.

11-101. Misdemeanors of the state adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against the Town of Livingston also. Any violation of any such law within the corporate limits is also a violation of this section. (1989 Code, § 10-101)

¹Municipal code references

Animal control: title 10.

Housing and utility codes: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

CHAPTER 2**ENUMERATED****SECTION**

- 11-201. Assault and battery.
- 11-202. Disturbing the peace.
- 11-203. Disorderly houses.
- 11-204. Immoral conduct.
- 11-205. Obscene literature.
- 11-206. Indecent or improper exposure or dress.
- 11-207. Window peeping.
- 11-208. Profanity, etc.
- 11-209. Disturbing the municipal court.
- 11-210. Illegal voting.
- 11-211. Vote soliciting at polling places.
- 11-212. Escape from custody or confinement.
- 11-213. Resisting or interfering with a police officer.
- 11-214. Impersonating an officer.
- 11-215. Weapons and firearms generally.
- 11-216. Air rifles, etc.
- 11-217. Throwing of missiles.
- 11-218. Gambling.
- 11-219. Promotion of gambling.
- 11-220. Possession of federal wagering stamp.
- 11-221. Jumping or hanging on motor vehicles.
- 11-222. False emergency alarms.
- 11-223. Loitering.
- 11-224. Prowling.
- 11-225. Vagrancy.
- 11-226. Trespassing on trains.
- 11-227. Curfew for minors.
- 11-228. Malicious mischief.
- 11-229. Posting notices, etc.
- 11-230. Spitting.
- 11-231. Public drunkenness.
- 11-232. Alcoholic beverages in or near city park.
- 11-233. Drinking beer, etc., on streets, etc.
- 11-234. Antinoise regulations.

11-201. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (1989 Code, § 10-201)

11-202. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1989 Code, § 10-202)

11-203. Disorderly houses. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. (1989 Code, § 10-203)

11-204. Immoral conduct. No person shall commit or offer or agree to commit, nor shall any person secure or offer another for the purpose of committing, a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for any such purpose. (1989 Code, § 10-204)

11-205. Obscene literature. It shall be unlawful for any person to publish, sell, exhibit, distribute, or possess for the purpose of loaning, selling or otherwise circulating or exhibiting, any book, pamphlet, ballad, or other written or printed paper containing obscene language, prints, pictures, or descriptions manifestly intended to corrupt the morals. (1989 Code, § 10-205)

11-206. Indecent or improper exposure or dress. It shall be unlawful for any person to publicly appear naked or in any dress not appropriate to his or her sex, or in any indecent or lewd dress, or to otherwise make any indecent exposure of his or her person. (1989 Code, § 10-206)

11-207. Window peeping. No person in the town shall look, peer, or peep into or be found loitering around or within view of, any window not on his own property with the intent of watching or looking through said window. (1989 Code, § 10-207)

11-208. Profanity, etc. No person shall use any profane, vulgar or indecent language in or near any public street or other public place or in or around any place of business open to the use of the public in general. (1989 Code, § 10-208)

11-209. Disturbing the municipal court. It shall be unlawful for any person to create a disturbance of any trial before the municipal court by any distracting conduct, loud or unusual noise, or any indecorous, profane or blasphemous language. (1989 Code, § 10-209)

11-210. Illegal voting. It shall be unlawful for any unauthorized person to vote in any municipal election. (1989 Code, § 10-210)

11-211. Vote soliciting at polling places. It shall be unlawful for any person, including those authorized to be watchers or observers, to hand out or distribute cards, pamphlets, pictures or literature within one hundred and fifty feet (150') of any ballot box or voting machine during the time the polls are lawfully open on the day of any election or primary held in the city. It shall also be unlawful for any person to do any other act whatsoever within said limits and during said time for the purpose of attempting to influence the vote of any voter. (1989 Code, § 10-211)

11-212. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town to escape or attempt to escape or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1989 Code, § 10-212)

11-213. Resisting or interfering with a police officer. It shall be unlawful for any person to resist or in any way interfere with or attempt to interfere with any police officer while the latter is in the discharge or apparent discharge of his duty. (1989 Code, § 10-213)

11-214. Impersonating an officer. No person other than an official police officer of the town, shall wear the uniform, apparel, or badge, or carry the identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. (1989 Code, § 10-214)

11-215. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knuckles, pistol, revolver, or any other dangerous weapon except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any police officer engaged in his or her official duties, and acting in their official capacities. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or police officer to assist in the discharge of his or her said duties and in arresting

criminals and transporting and turning them over to proper authorities nor to any conductor of any passenger or freight train of any steam railroad while on duty. It shall be unlawful for any unauthorized person to discharge a firearm within the town except at a commercial firing range/shooting gallery as defined in title 12, chapter 5 of the Municipal Code for the Town of Livingston, Tennessee. (1989 Code, § 10-215, as replaced by Ord. #2018-11-1, Dec. 2018 *Ch1_09-08-20*)

11-216. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, or "BB" gun, capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive or other force-producing means or method. (1989 Code, § 10-216)

11-217. Throwing of missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person in any public or private way or place. (1989 Code, § 10-217)

11-218. Gambling. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1989 Code, § 10-218)

11-219. Promotion of gambling. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to keep or exhibit any gaming table or device for gaming. (1989 Code, § 10-219)

11-220. Possession of federal wagering stamp.¹ It shall be unlawful for any person within the corporate limits of the Town of Livingston, Tennessee, to possess a federal wagering stamp as provided by the provisions of the Revenue Act of 1951 enacted by the Congress of the United States. (1989 Code, § 10-220)

11-221. Jumping or hanging on motor vehicles. It shall be unlawful for any person to attempt to or to actually jump on or hang to any moving motor vehicle. (1989 Code, § 10-221)

11-222. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police

¹The provisions contained in this section were upheld by the Tennessee Supreme Court as being constitutional in the 1953 Chattanooga case of Deitch et al. v City of Chattanooga, 195 Tenn. 245.

or ambulance assistance, or to aid or abet in the commission of such an act. (1989 Code, § 10-222)

11-223. Loitering. It shall be unlawful for any person without legitimate business or purpose to loaf, loiter, wander, or idle in, upon, or about any way or place customarily open to the use of the public in general. (1989 Code, § 10-223)

11-224. Prowling. It shall be unlawful for any person to prowl or wander about the streets, alleys, or other public or private ways or places, or be found abroad at late or unusual hours in the night without any visible or lawful business and when unable to give a satisfactory account of himself. (1989 Code, § 10-224)

11-225. Vagrancy. Vagrants are prohibited in public ways and places within the corporate limits. (1989 Code, § 10-225)

11-226. Trespassing on trains. It shall be unlawful for any minor or other person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1989 Code, § 10-226)

11-227. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 11:00 P.M. unless upon a legitimate errand or accompanied by a parent, guardian or other adult person having lawful custody of such minor. (1989 Code, § 10-227)

11-228. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, wantonly or negligently to damage, deface, destroy, conceal, or remove any real or personal property which does not belong to him. (1989 Code, § 10-228)

11-229. Posting notices, etc. No person shall fasten, in any way, any showcard, poster, or other advertising device upon any public or private property within the corporate limits unless legally authorized to do so. (1989 Code, § 10-229)

11-230. Spitting. It shall be unlawful for any person to spit or expectorate upon any street or sidewalk or upon the floors or grounds of any public building within the town. (1989 Code, § 10-230)

11-231. Public drunkenness. See the Tennessee Code Annotated, sections 39-6-925, et seq.; see also title 33, ch. 8. (1989 Code, § 10-231, modified)

11-232. Alcoholic beverages in or near city park. It shall be unlawful to possess or consume beer or any alcoholic beverages within the boundaries of the Livingston City Park of Livingston, Tennessee, or on lands or public use areas reasonably close thereto, and conviction of a violation of this ordinance shall be punishable as a small offense or other misdemeanor of this code. (1989 Code, § 10-232)

11-233. Drinking beer, etc. on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place within the town unless the place has a beer permit and license. (1989 Code, § 10-232)

11-234. Anti-noise regulations. Subject to the provisions of this section the creating of any unreasonably loud, disturbing and unnecessary noise within the corporate limits 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 and noise in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) **Blowing horns.** The sounding of any horn or signal device on any automobile, motorcycle, bus, street car or other 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 loud speakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort or repose of persons in any office or hospital, or in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in any hospital, dwelling, hotel, or other type of residence, or of any persons 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, street car, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 5:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the recorder which permit may be granted for a period not to exceed thirty (30) days while the emergency continues. If the recorder shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

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

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

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1989 Code, § 10-233)

CHAPTER 3

SMOKING IN PUBLIC FACILITIES PROHIBITED

SECTION

- 11-301. Purpose.
- 11-302. Definitions.
- 11-303. Prohibitions.
- 11-304. Designation of smoking and non-smoking areas.
- 11-305. Posting of signs.
- 11-306. Exceptions.
- 11-307. Enforcement and appeal.
- 11-308. Penalties.

11-301. Purpose. The purpose of this chapter is to prohibit the smoking of tobacco, or any weed or plant, in or at any public facility or other certain public property frequented by the public except in designated smoking areas. (Ord. #2009-1-1, March 2009)

11-302. Definitions. For the purposes of this chapter, the following words shall have the meaning as stated:

- (1) "Smoke" or "smoking" means the carrying of a lighted pipe, cigar, cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind.
- (2) "Public facility" means:
 - (a) Any enclosed area facility which is owned, operated, leased or under the control of the town of Livingston to which the public is invited or in which the public is permitted; including, but not limited to theaters, waiting rooms, reception areas, education facilities, and areas in which city employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, and conference rooms; or
 - (b) Any sports pavilion, sports stadium, public swimming pool, public park and any other similar place which is owned, operated, leased or under the control of the town of Livingston where members of the --public and minor children assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.
- (3) "Private office" means any enclosed room normally occupied by two (2) or fewer individuals and not generally open to the public. (Ord. #2009-1-1, March 2009)

11-303. Prohibitions. No person shall, in or at a public facility as defined above, smoke except in the designated smoking area(s) of such public facility. (Ord. #2009-1-1, March 2009)

11-304. Designation of smoking and non-smoking areas.

(1) Non-smoking areas may be designated at public facilities by the person in charge.

(2) Smoking areas may be designated at public facilities by the person in charge; except in public conveyances, theaters, auditoriums, public assembly rooms, meeting rooms, restrooms, elevators, libraries, museums or galleries which are open to the public or any other place where smoking is prohibited by the fire marshal or by other law, ordinance or regulation. In areas where smoking is permitted, existing physical barriers and ventilation systems shall be used to minimize the effect of smoke in adjacent nonsmoking areas. It shall be the responsibility of the mayor to provide smoke-free areas for non-smokers within or at existing facilities to the maximum extent possible. (Ord. #2009-1-1, March 2009)

11-305. Posting of signs. Signs which designate smoking or non-smoking areas established by this chapter shall be clearly, sufficiently, and conspicuously posted in every room, building, or other place so covered by this chapter. The manner of such posting including the wording, size, color, design, and place of posting whether on the walls, doors, tables, counters, stands or elsewhere shall be at the discretion of the person having control of such room, building, facility or other place so long as clarity, sufficiency, and conspicuousness are apparent in communicating the intent of this chapter. (Ord. #2009-1-1, March 2009)

11-306. Exceptions. Notwithstanding any other provision of this chapter, non-smoking areas shall not be required in private offices, meeting and assembly rooms rented to guests, areas and rooms while in use for private social functions, and jails. (Ord. #2009-1-1, March 2009)

11-307. Enforcement and appeal. The person in charge of any facility defined herein shall post or cause to be posted all "No Smoking" and "designated smoking area" signs required by this chapter. Employees working in such facility shall be required to orally inform persons violating this chapter of the provision thereof. The duty to inform such visitor shall arise when such employee becomes aware of such violation.

(2) It shall be the responsibility of the mayor to disseminate information concerning the provisions of this chapter to employees.

(3) The person in charge of any facility subject to this chapter may apply to the board of mayor and aldermen for an exemption or modification of the provisions of this chapter due to unique or unusual circumstances or conditions. (Ord. #2009-1-1, March 2009)

11-308. Penalties. Any person violating any provision of this ordinance shall be guilty of an offense and upon conviction shall pay a penalty of not less

than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. Each occurrence shall constitute a separate offense. (Ord. #2009-1-1, March 2009)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. RESIDENTIAL CODE.
3. PLUMBING CODE.
4. FUEL GAS CODE.
5. MECHANICAL CODE.
6. FIRING RANGE/SHOOTING GALLERIES.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Deleted.
- 12-104. Deleted.
- 12-105. Violations.

12-101. Building code adopted. A certain document, a copy of which is on file in the office of the Mayor of the Town of Livingston, being marked and designated as the International Building Code,² 2012 edition, excluding all of the appendices, as published by the International Code Council, be and is hereby adopted as the building code of the Town of Livingston, in the State of Tennessee for regulating and governing the conditions and maintenance of all property, buildings, and structures, by providing the standards for supplied utilities and facilities and 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 as

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions, and terms of said building code on file in the office of the Town of Livingston are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions, and changes, if any prescribed in § 12-102. (Ord. #2008-1-3, ____, 2008, modified, as replaced by Ord. #2014-7-1, July 2014 **Ch1_09-08-20**)

12-102. Modifications. The following sections are hereby revised:

Section 101.1 Title. These regulation shall be known as the Building Code for the Town of Livingston, hereinafter referred to as "this code."

Section 1612.3. Establishment of Flood Hazard Areas. To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard, as identified by the Federal Emergency Management Agency in an engineering report entitled " the Flood Insurance Study for the Town of Livingston," dated June 3, 1986, as amended or revised with the accompanying Flood Map (FBFM) and related supporting data supporting data along with any revisions thereto. the adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

Section 3410.2. Applicability. Structures existing prior to _____ in which there is work involving additions alterations, or changes or occupancy shall be made to conform to the requirements of this section or the provisions of Section 3403 through 3407. The provisions in sections 3410.21 through 3410.2.5 shall apply to existing occupancies that will continue to be or are proposed to be, in Groups A, B, E , E, M, R, S, and U. These provisions shall not apply to buildings with occupancies in Group H and I. (Ord. #2008-1-3, ____, 2008, as replaced by Ord. #2014-7-1, July 2014 **Ch1_09-08-20**)

12-103. Fees. The fees for building permits are as follows: one-half of one percent (1/2 of 1%) of the total cost of the project. This includes building, renovating, demolition, or moving. (Ord. #2008-1-3, ____, 2008, as replaced by Ord. #2014-7-1, and Ord. #2014-7-1, July 2014 **Ch1_09-08-20**)

12-104. Deleted. 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 recorder's office and shall be kept there for the use and inspection of the public. (1989 Code, § 4-103, modified, and deleted by Ord. #2014-7-1, July 2014 **Ch1_09-08-20**)

12-105. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1989 Code, § 4-104)

CHAPTER 2

RESIDENTIAL CODE

SECTION

- 12-201. Residential code adopted.
- 12-202. Modifications.
- 12-203. Fees.
- 12-204. Deleted.
- 12-205. Violations and penalty.

12-201. Residential code adopted. A certain document, three (3) copies of which are on file in the office of the Mayor of the Town of Livingston, being marked and designated as the International Residential Code,¹ 2012 edition, excluding all of the appendices, as published by the International Code Council, be and is hereby adopted as the residential code of the Town of Livingston, in the State of Tennessee, regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one and two family dwellings and multiple single family, dwellings (townhouses) not more than three (3) stories in height with separate means of egress in the Town of Livingston; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said residential code on file in the office of the Town of Livingston are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance; with the additions, insertions, deletions, and changes, if any, prescribed in § 12-202. (Ord. #2008-1-1, ____, 2008, modified, as replaced by Ord. #2014-7-2, July 2014 *Ch1_09-08-20*)

12-202. Modifications. The following sections are hereby revised:

Section R101.1 Title. These regulations shall be known as the Residential Code for One and Two-Family Dwellings of the Town of Livingston, hereinafter referred to as "this code."

¹Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Section R301.2 (1)

Table R301.2 (1)

TABLE R301.2(1)
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

GROUND SNOW LOAD		10 in.
WIND SPEED (mph)		90 mph
SEISMIC DESIGN CATEGORY		B
SUBJECT TO DAMAGE FROM	Weathering	Severe
	Frost line depth	18 in.
	Termite	Mod.-Heavy
	Decay	Mod. to Severe
WINTER DESIGN TEMP		14
ICE SHIELD UNDERLAYMENT REQUIRED		NO
FLOOD HAZARDS		6-3-1986
AIR FREEZING INDEX		1,000
MEAN ANNUAL TEMP		55-60°

Section P2603.6.1. Sewer Depth. Building sewers that connect to private sewage disposal systems shall be a minimum of 18 inches below finished grade at the point of septic tank connection. Building sewers shall be minimum of 18 inches below the grade.

Section P3103.1. Roof Extensions. All open vent pipes that extend through a roof shall be terminated at least thirty-six (36) inches above the roof, or thirty-six (36) inches above the anticipated snow accumulation, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven (7) feet above the roof.

Chapters 22, 23, 29, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 are not included in this ordinance.

Section 313 & 309.5. These sections (313 & 309.5) are hereby deleted. (Ord. #2008-1-1, _____, 2008, as replaced by Ord. #2014-7-2, July 2014 ***Ch1_09-08-20***)

12-203. Fees. The fees for building permits shall be one-half of one percent ((1/2) of 1%) of the total cost of the project. (Ord. #2008-1-1, _____, 2008, as replaced by Ord. #2014-7-2, July 2014 ***Ch1_09-08-20***)

12-204. Deleted. (as deleted by Ord. #2014-7-2, July 2014 ***Ch1_09-08-20***)

12-205. 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.

CHAPTER 3

PLUMBING CODE¹

SECTION

12-301. Plumbing code adopted.

12-302. Deleted.

12-303. Deleted.

12-304. Violations.

12-301. Plumbing code adopted. A certain document, three (3) copies of which are on file in the office of the Town of Livingston, Tennessee's City Hall being marked and designated as the International Plumbing Code,² 2012 edition, excluding all Appendixes, as published by the International Code Council, be and is hereby adopted as the plumbing code of the Town of Livingston in the State of Tennessee regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems 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 plumbing code on file in the office of the Town of Livingston, Tennessee are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, noted herein. (Ord. #2008-1-2, ____, 2008, modified, as replaced by Ord. #2014-7-3, July 2014 *Ch1_09-08-20*)

12-302. Deleted. (Ord. #2008-1-2, ____, 2008, as deleted by Ord. #2014-7-3, July 2014 *Ch1_09-08-20*)

12-303. Deleted. (1989 Code, § 4-203, modified, as deleted by Ord. #2014-7-3, July 2014 *Ch1_09-08-20*)

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

12-304. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1989 Code, § 4-204)

CHAPTER 4

FUEL GAS CODE

SECTION

- 12-401. Gas code adopted.
- 12-402. Modifications.
- 12-403. Gas requirements.
- 12-404. Available in recorder's office.
- 12-405. Violations and penalty.

12-401. Gas code adopted. That a certain document, three (3) copies of which are on file in the office of the Mayor of the Town of Livingston, being marked and designated as the International Fuel Gas Code,¹ 2012 edition, as published by the International Code Council, be and is hereby adopted as the fuel gas code of the Town of Livingston, in the State of Tennessee, regulating and governing fuel gas systems and gas-fired appliances in the Town of Livingston as provided herein; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code on file in the office of the Town of Livingston are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions, and changes, if any, prescribed in §§ 12-402 and 12-404. (Ord. #2008-1-4, _____, 2008, modified, as replaced by Ord. #2014-7-4, July 2014 *Ch1_09-08-20*)

12-402. Modifications. The following sections are hereby revised.

Section R101.1 Titles. These regulations shall be known as the Fuel Gas Code for the Town of Livingston, hereinafter referred to as "this code."

Section 106.5.2 Fee Schedule. The fees for work shall be as indicated in the following schedule.

Inspection Fees

Residential: \$25.00

Commercial and Industrial: \$100.00

The first of these fees are the responsibility of the property owner, which will be added to their monthly statement. Any additional inspection fees required are the contractor's responsibility, who is required to sign a work order at City Hall and pre-pay the fee.

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

Section 106.5.3. Fee Refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. The full amount of any fee paid hereunder when no work has been done under a permit issued in accordance with this code.
3. Not more than fifty percent (50%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid, except upon written application filed by the original permitted not later than 180 days after the date of fee payment.

Section 108.4. Violation Penalties. Persons who violate a provision of this code, fail to comply with any of the requirements thereof, or erect, install, alter, or repair work in violation of the approved construction documents or directives of the code official or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than fifty dollars (\$50.00) a day. Each day that violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop Work Orders. Upon notice from the code official that work is being done contrary to the provisions of this code or in as dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to file a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served the stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable or a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00).

Sections 402.6.1, 412, 413 and all of the 700's and all Appendices: These sections of the International Fuel Gas Codes, 2012 Edition, are not adopted and specifically excluded from this ordinance. (Ord. #2008-1-4, ____, 2008, as replaced by Ord. #2014-7-4, July 2014 *Ch1_09-08-20*)

12-403. Gas requirements. (1) All stoves, heaters, gas logs, furnace, dryers, and water heaters must have safety valves.

- (2) Unvented heaters cannot be installed in sleeping areas. BTU for unvented heaters shall not exceed forty thousand (40,000).
- (3) The gas inspector will be checking the following:
- (a) Making sure there is no galvanized pipe. The type of pipe approved for the Town of Livingston is Gas Tight and Ward Flex.
 - (b) Maximum of three feet (3') of copper tubing;
 - (c) All pipes should be encased through walls and floors;
 - (d) No bushings;
 - (e) If there is a gas valve next to unit;
 - (f) If there is a drip leg at the meter;
 - (g) On residential, the installer must have an air test of forty (40) lbs. for twenty (20) minutes.
 - (h) On factories, businesses, churches, and schools, the installer must have an air test of one hundred (100) lbs. for one (1) hour.
- (4) After the installer has met all of the requirements set forth above and has finished all duct work, vent and electrical, and has installed a thermostat, then he should call city hall for a gas inspection.
- (5) Inspection fees:
- (a) Contractor will pay the first inspection fee of twenty-five dollars (\$25.00) and sign work order at city hall. Any additional inspection fee shall be twenty-five dollars (\$25.00).
 - (b) If homeowner wants an inspection, they will pay twenty-five dollars (\$25.00) or it can be added to their monthly statement.
- (6) Inspection fees for factories, businesses, churches, and schools will be one hundred dollars (\$100.00) for each trip.
- (7) If at anytime you interrupt an old system, there must be a gas inspection. (Ord. #2008-1-4, ____, 2008)

12-404. Deleted. (as deleted by Ord. #2014-7-4, July 2014 *Ch1_09-08-20*)

12-405. Deleted. (as deleted by Ord. #2014-7-4, July 2014 *Ch1_09-08-20*)

CHAPTER 5

MECHANICAL CODE

SECTION

12-501. Mechanical code adopted.

12-502. Modifications.

12-501. Mechanical code adopted. That a certain document, three (3) copies of which are on file in the office of the Town of Livingston, Tennessee's City Hall being marked and designated as the International Mechanical Code,¹ 2012 edition, excluding all appendixes, as published by the International Code Council, be and is hereby adopted as the mechanical code of the Town of Livingston in the State of Tennessee regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement;, addition to, use or maintenance of mechanical systems 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 mechanical code on file in the office of the Town of Livingston, Tennessee are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in § 12-502. (as added by Ord. #2014-7-6, July 2014 *Ch1_09-08-20*)

12-502. Modifications. The following sections are hereby revised:

Section 101.1. Titles. These regulations shall be known as the Mechanical Code for the Town of Livingston, hereinafter referred to as "this code."

Section 106.5 .2. Insert: one percent (1%)

Section 108.4 Insert: Misdemeanor offense; Fine \$50.00 per day; No limit to the number of days

Section 108.5 Insert: \$50.00 to \$500.00. (as added by Ord. #2014-7-6, July 2014 *Ch1_09-08-20*)

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

CHAPTER 6

FIRING RANGES/SHOOTING GALLERIES

SECTION

12-601. Firing range/shooting gallery defined.

12-602. Minimal standards.

12-601. Firing range/shooting gallery defined. The terms firing range and/or shooting gallery as used in this section means any public place or range for shooting and discharging firearms at a target for which a fee is charged, except shooting galleries or ranges maintained or operated by any military organization, police department or school, the privileges of which are not available to the general public. (as added by Ord. #2018-11-2, Dec. 2018 *Ch1_09-08-20*)

12-602. Minimal standards. Any person(s) and/or entities desiring to construct and/or operate a firing range/shooting gallery within the Town of Livingston, Tennessee must comply with the following minimal construction and safety standards

(1) Backstops and bullet traps must be designed in accordance with acceptable standards to reduce back splatter and ricochets and must exceed the ability to stop and trap all types and calibers of ammunition to be used. Backstops and bullet traps shall extend the full width of the room and forward at an angle of forty-five degrees (45°) from the floor and shall be made rigid. It is highly recommended that a commercial manufacture be used for the backstop. The counter shall be so constructed that there shall be no interference between or among the persons shooting at different targets.

(2) The outside walls of the range shall at a minimum be constructed of eight inch (8") concrete blocks filled with concrete to maximize ballistic containment and noise dampening; The inside walls of the range shall be lined with a minimum of one-half inch (1/2") AR-500 steel which shall be lined with ballistic rubber; The backstop shall be constructed of AR-500 steel and filled with ballistic rubber granules and be capable of stopping rifle rounds up to 338 lapua. The ceiling shall be lined with angled baffles to direct any stray bullets down range; and the ceiling shall be constructed/lined with AR-500 steel and lined with ballistic rubber.

(3) All doors, gates and entrances leading into that, part of the premises between the firing point and the backstop shall be equipped with secure locks.

(4) The firing ranges/shooting galleries shall be properly and adequately ventilated at all times and comply with all applicable OSHA, NIOSH, and EPA standards. (as added by Ord. #2018-11-2, Dec. 2018 *Ch1_09-08-20*)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES.
3. PROPERTY MAINTENANCE BOARD.
4. SLUM CLEARANCE.
5. JUNKYARDS.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 13-101. Health officer.
- 13-102. Overgrown and dirty lots.
- 13-103. Smoke, soot, cinders, etc.
- 13-104. Stagnant water.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Throwing, dumping or depositing litter.
- 13-108. Weeds.

13-101. Health officer. The "health officer" of the Town of Livingston is the municipal, county, state, or privately contracted officer as the Mayor shall appoint or designate to administer and enforce health and sanitation regulations within the town. (1989 Code, § 8-101, as replaced by Ord. #2019-2-4, March 2019 *Ch1_09-08-20*)

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

²For specific health and sanitation provisions elsewhere in this code with respect to the following, see the references indicated:

- (1) animals and fowls. title 10.
- (2) littering streets, etc. § 16-207.
- (3) spitting. § 11-230.
- (4) taxicabs. § 9-206.

13-102. Overgrown and dirty lots. (1) It is 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, rubbish, junk, trash, litter, garbage, filth or to allow the accumulation or creation of debris which could be blown onto neighboring properties, 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 flies, rodents, vermin and other harmful animals on the premises such that the same is a menace to the public health or an annoyance of people residing in the vicinity.

(2) For purposes of this section, "debris," "trash," "junk" and/or "rubbish" shall include discarded, damaged, broken or inoperable items left outdoors and visible on the premises including but not limited to rusted automobile and/or mechanical parts, machine parts, furniture, mattresses, tires, barrels, appliances, televisions and/or other electronics, construction and deconstruction materials, household goods, and articles of clothing.

(3) In addition to the foregoing, the following actions or inactions by any person within the Town of Livingston hereby are declared to be unlawful and nuisances:

(a) For any person to permit or suffer weeds, trees and/or other vegetation to grow or to allow trash, debris or rubbish to accumulate which is injurious to or likely to imperil the health, safety and welfare of the residents of the Town of Livingston and the general public;

(b) For any person to permit or suffer any substance, animal or thing to accumulate on his property, which substance is or is likely to become a public nuisance, or which is likely to imperil the life, health or safety of any persons, or which, through the giving off of odors or noises is or is likely to become offensive or injurious to the comfort or safety of the residents and the general public such nuisance may be abated and the cost of the abatement shall be assessed against the owner of the property as stipulated and in the manner prescribed in § 13-102(3).

(4) To the extent possible without entering the property, the health officer is directed to make regular inspections of all properties within the Town of Livingston to determine if a violation of subsection (1) exists. In the event that the health officer finds any violation as a result of the inspection and investigation, the health officer shall cause notice to be forwarded, by registered or certified mail, return receipt requested, to the last known address of all owners of such property as are shown on the tax books of the town, advising the owners of the existence of the condition that is in violation of subsection (1) hereof, and further advising that unless compliance is effected within fifteen (15) calendar days from the date of mailing such notice, the Town of Livingston will cause the cutting and/or removal to be accomplished, and the expense thereof charged to the property and owners thereof. If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage

or other materials, the time period shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays. When an attempt at notification by United States mail fails or no valid last known address exists for the owner(s) of record, the municipality may publish the notice in a newspaper of general circulation in the county where the property is located for no less than two (2) consecutive issues or personally deliver the notice to the owner(s) of record. For purposes of this section, such publication shall constitute receipt of notice effective on the date of the second publication of the notice; and personal delivery shall constitute receipt of notice immediately upon delivery. In addition to the aforesaid, the notice shall state that the owner(s) of the property is entitled to a hearing, and shall at a minimum, contain the following additional information:

(a) A brief statement of this section, which shall contain the consequences of failing to remedy the noted condition;

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

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

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

(5) In the event the property owner of record fails or refuses to remedy the noted condition within the prescribed time, the health officer shall immediately cause the condition to be remedied or removed and the cost thereof shall be assessed against the owner of the property. The health officer shall then notify the owners of the property of the amount of such expense, by registered or certified mail, return receipt requested, and shall further notify such owners that the reimbursement of such expensed is required within thirty (30) days from the date of such notice. All owners of property shall be liable, jointly and severally, for the expense of the remedy and/or removal accomplished by the town on their property, and the property itself shall be subject to suit or lien, for reimbursement of such expenses at the conclusion of the thirty (30) day period. For properties that are owner-occupied, the lien may be assessed when the costs incurred exceed five hundred dollars (\$500.00).

(6) Upon the filing of the notice with the office of the Register of Deeds in Overton County, the costs shall be a lien on the property in favor of the town, second only to liens of the state, county and town for taxes, any lien of the town for special assessments, and any valid lien, right or interest in such property duly recorded or fully perfected by filing prior to the filing of such notice. These costs shall be placed on the tax rolls of the town as a lien and shall be added to property tax bills for collection at the same time and in the same manner as property taxes are collected and, if the said taxes remain unpaid, subsequently as delinquent property taxes are collected with the same penalty(ies) and interest as delinquent property taxes. In the event such expenses are not reimbursed by December 31 of the year in which they were incurred, or after the

thirty (30) day period has expired, whichever is later, then the health officer shall notify the town attorney of all such amounts so expended, and the town attorney is authorized and directed to institute suits in the name of the Town of Livingston to recover all sums expended by the town pursuant to the provisions of this section, as well as all costs incurred in connection with collecting the unpaid expenses, including, but not limited to, interest, court costs and other reasonable costs.

(7) The owner of record who is aggrieved by the determination and order of the health officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the town recorder pursuant to information provided in the notice under subsection (2)(d). Failure to timely appeal shall, without exception, constitute a waiver of the right to a hearing. Any person aggrieved by an order or act of the board of mayor and aldermen under this section may seek judicial review of the order or act. The fifteen (15) day period prescribed in subsection (2) is stayed during the pendency of a hearing.

(8) 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 town to proceed against an owner, tenant or occupant of property. (1962 code, § 8-102, as replaced by Ord. #2019-2-4, March 2019 **Ch1_09-08-20**, and Ord. #2020-1, Feb. 2020 **Ch1_09-08-20**, and amended by Ord. #2020-8-1, Sept. 2020 **Ch1_09-08-20**)

13-103. 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. (Ord. #2000-1-2, Feb. 2000, as replaced by Ord. #2019-2-4, March 2019 **Ch1_09-08-20**)

13-104. 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. (1989 Code, § 8-104, as replaced by Ord. #2019-2-4, March 2019 **Ch1_09-08-20**)

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 town recorder and dispose of such animal in such manner as the town recorder shall direct. (1989 Code, § 8-105, as replaced by Ord. #2019-2-4, March 2019 **Ch1_09-08-20**)

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. (1989 Code, § 8-106, as replaced by Ord. #2019-2-4, March 2019 *Ch1_09-08-20*)

13-107. Throwing, dumping or depositing litter. A person shall not throw, dump, deposit or cause to be thrown, dumped or deposited litter, which includes garbage, refuse, rubbish and all other waste materials, on property owned by another person without the permission of the owner or occupant of such property or on any town street or road, upon town parks or recreation areas, or upon any other town property within the corporate limits, except for property designated for that use. (1989 Code, § 8-107, as replaced by Ord. #2019-2-4, March 2019 *Ch1_09-08-20*)

13-108. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order to cut such vegetation when it has reached a height of over one foot (1'). (as added by Ord. #2019-2-4, March 2019 *Ch1_09-08-20*)

CHAPTER 2

ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES

SECTION

- 13-201. Definitions.
- 13-202. Purpose, organization, powers, duties, etc.
- 13-203. Notice to remove.
- 13-204. Responsibility for removal.
- 13-205. Hearing.
- 13-206. Removal of motor vehicle from property.
- 13-207. Notice of removal.
- 13-208. Disposition of vehicles.
- 13-209. Storage of vehicles.
- 13-210. Redemption of impounded vehicle.
- 13-211. Penalty.
- 13-212. Computation of days.

13-201. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Town" is the Town of Livingston.

(2) "Mayor" is the Mayor of the Town of Livingston.

(3) "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, buses, motor-bikes, motorcycles, motor scooters, trucks, tractors, riding lawn mowers, go-carts, golf carts, campers and trailers.

(4) "Junked motor vehicle" is any motor vehicle, as defined by §13-401(3) which does not have one (1) lawfully affixed thereto an unexpired license plate and the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, or constitutes a public nuisance and/or affecting the health and safety of the community as a whole.

(5) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

(6) "Private property" shall mean any real property within the town which is privately owned and which not public property is as defined in this subsection.

(7) "Public property" shall mean any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

(8) Failure to have lawfully affixed thereto an unexpired license plate as required in the State of Tennessee shall constitute a rebuttable presumption of a junked motor vehicle. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

13-202. Purpose, organization, powers, duties, etc. The purpose of the Town of Livingston Property Maintenance Board is to be an advisory body to the Town of Livingston Board of Mayor and Aldermen and to the Livingston Building Official and the Livingston Health Officer on matters involving enforcement of property maintenance regulations in title 13 of the Livingston Municipal Code when said official or officer requests guidance and/or assistance. The board may also provide input on amendments to property maintenance regulations to the governing body. The board will meet on an as needed basis at times and places to be designated by the chairperson or board members with sufficient notice being provided to the public of the time, date and location of each meeting. The board members shall elect a chairperson, arrange for minutes of meetings to be recorded and make such other decisions as shall be necessary for operations of the board. All meetings of the board shall be open to the public and notice shall be provided as required by the Tennessee Public Meetings Act. Upon request of the Livingston Building Official or the Health Officer, the chairperson, or two (2) board members, may call for a meeting to be scheduled with seventy-two (72) hours' notice provided to all board members, all parties interested in matters to be discussed and the public. The board shall provide reports to the Livingston Board of Mayor and Alderman as requested by the mayor and/or board of aldermen. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*, and replaced by Ord. #2020-8-1, Sept. 2020 *Ch1_09-08-20*)

13-203. Notice to remove. (1) In the event the public building official finds any violation, said official will provide notices to the owner or resident of the property upon which the said vehicle is located stating that the condition of the vehicle has caused a violation of this chapter and that unless this violation is corrected within thirty (30) days, procedures will commence to effect the removal of the vehicle and all reasonable costs associated with said removal will be levied against the owner or occupant of the property. Such thirty (30) day notice or one similar thereto shall also be provided to the vehicle owner and any lien holders to extent that their name(s) and address(es) may be reasonably ascertained after the town has first been apprised of such violation. If in the opinion of the fire chief, health officer, mayor or their designees that an emergency exists the vehicle may be removed immediately.

(2) If the thirty (30) day preliminary notice does not accomplish the correction of the violation, the procedure hereinafter set out shall be invoked. A second notice shall be directed to the owner of the vehicle and any lienholder, if known and the owner of the premises where same is located at least ten (10) days before the time for compliance therewith. It shall constitute sufficient

notice if a copy of same is posted in a conspicuous place upon the premises affected and a copy is mailed to such owner(s) and lienholder(s) at their last known address, place of residence or place of business. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*, and replaced by Ord. #2020-8-1, Sept. 2020 *Ch1_09-08-20*)

13-204. Responsibility for removal. Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled, or inoperative vehicle and the owner or occupant of the private property on which the same is located either or all of them shall be responsible for its removal. In the event of removal and disposition by the town, the owner or occupant of the private property where same is located, shall be liable for the expenses incurred. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

13-205. Hearing. Within ten (10) 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 an administrative hearing before the Municipal Judge of the Town of Livingston, or its designee, for the purpose of reviewing the determination made by the town. 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; and the town and person(s) to whom the notice(s) have been directed may introduce such witnesses and evidence as either party deems necessary. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

13-206. Removal of motor vehicle from property. If the violation described in the notice has not been remedied within ten (10) days of the mailing or service of the second notice, or in the event that a notice requesting a hearing is timely filed, a hearing is had and the existence of the violation is affirmed by an order from the municipal judge, the mayor or his designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for or any person to interfere with, hinder or refuse to allow the town designee to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

13-207. Notice of removal. Within seventy-two (72) hours of the removal of such vehicle, the mayor shall order the police department to provide notice to the registered owner or the vehicle, if known, and also to any lien holders of record that said vehicle, or vehicles, has been impounded and stored for violation of this chapter. The notice shall describe the year, make, model and serial number of the motor vehicle; set forth the location of the facility where the motor vehicle is being held; inform the owner and any lienholders of their right to reclaim the motor vehicle within ten (10) days after the date of the notice,

upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody; and state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title and interest in the vehicle and consent to the sale of the abandoned, immobile, or unattended motor vehicle at a public auction. The notice and service of the notice shall comply with the requirements of state law found at Tennessee Code Annotated, § 55-16-105. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

13-208. Disposition of vehicles. If after service of the required notice no response is received from the owner or lien holder(s), the mayor shall sell the abandoned motor vehicle at public auction ten (10) days after the date of the notice. The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the mayor and upon presentation of such sales receipt shall be entitled to receive a certificate of title from the Department of Revenue for the State of Tennessee. The proceeds from a sale of an abandoned motor vehicle shall be used for payment of the expenses of the auction, the cost of towing, preserving, and storing the abandoned motor vehicle, and all notice and publication costs, together with any other costs associated with the process. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or any entitled lienholder for period of sixty (60) days and if not claimed, then shall be deposited in the general fund of the town. Should the sale of any vehicle for any reason be invalid, the town's liability shall be limited to the return of the purchase price. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

13-209. Storage of vehicles. The town, through its agents, employees and servants, may utilize municipal property for the storage of impounded vehicles, and in such event shall be entitled to storage costs not to exceed ten dollars (\$10.00) per day, or a daily rate charged by a commercial storage facility, for enforcement as set forth herein. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

13-210. Redemption of impounded vehicle. The owner of any vehicle seized under the provisions of this chapter may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the Town of Livingston of any and all expenses incurred by the Town of Livingston in connection with the enforcement of this chapter as determined by the mayor or his designee. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

13-211. Penalty and remedy. Any person violating any provision of this chapter may be subject to punishment in accordance with the general penalty provisions of this code of ordinances and a fine of up to fifty dollars (\$50.00).

Each act in violation of the provisions hereof and/or each day that an act is allowed to continue in violation of the provisions hereof may be deemed a separate offense and an additional violation. Any fine imposed as a result hereof is intended to be remedial in nature for the purpose of deterrence and to protect the public health, safety and welfare of the residents of Livingston. In addition to imposing fines as noted in this section, the town may pursue other remedies by filing action in any state court with jurisdiction. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

13-212. Computation of days. Any reference hereinabove to "days" for purposes of notice and action by the city shall be deemed to be calendar days unless the last day is a Saturday, a Sunday, or a legal holiday, and then it shall also be excluded. (as added by Ord. #2019-4-2, May 2019 *Ch1_09-08-20*)

CHAPTER 3

PROPERTY MAINTENANCE BOARD

SECTION

13-301. Creation and membership.

13-302. Purpose, organization, powers, duties, etc.

13-301. Creation and membership. There is hereby created the Town of Livingston Property Maintenance Board. The board shall consist of seven (7) members which shall include one (1) member from the Livingston Board of Zoning Appeals, one (1) member from the Livingston Planning Commission, one (1) member from the board of alderman, one (1) member from Envision Livingston, and three (3) members from the community. Members of the board shall be appointed by the mayor with approval by the governing body who shall also have the authority to remove any appointed member at their pleasure. All members of the board shall be residents of the Town of Livingston. Members of the property maintenance board shall serve terms of two (2) years. In the event of a vacancy, the mayor with approval by the governing body shall make an appointment to fill the vacancy until the expiration of the current term. (as added by Ord #2019-2-2, March 2019 *Ch1_09-08-20*)

13-302. Purpose, organization, powers, duties, etc. (1) The purpose of the Town of Livingston Property Maintenance Board is to be an advisory body to the Town of Livingston Board of Mayor and Aldermen and to the Livingston Building Official and the Livingston Health Officer on matters involving enforcement of property maintenance regulations contained in title 13 of the Livingston Municipal Code. The board may also provide input on amendments to property maintenance regulations to the governing body. The board shall meet every thirty (30) days at a time and place to be designated by the board members. At the first meeting of the board, members shall elect a chair, arrange for minutes of meetings to be recorded, set a meeting schedule and make such other decisions as shall be necessary for operations of the board. All meetings of the board shall be open to the public and notice shall be provided as required by the Tennessee Public Meetings Act. Upon request by the Livingston Building Official or the health officer, special called meetings may be called by two (2) members of the board within seventy-two (72) hours' notice provided to all board members, parties interested in matters to be discussed and the public. The board shall provide reports to the Livingston Board of Mayor and Aldermen at least quarterly, or so often as the governing body may request.

(2) Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court, such a decision shall not affect the validity of the remaining portions of this ordinance.

(3) This ordinance shall take effect then (10) days after its passage, approval and recording, the public welfare requiring it. (as added by Ord #2019-2-2, March 2019 *Ch1_09-08-20*)

CHAPTER 4

SLUM CLEARANCE

SECTION

- 13-401. Findings of board.
- 13-402. Definitions.
- 13-403. "Public officer" designated; powers.
- 13-404. Initiation of proceedings; hearings.
- 13-405. Orders to owners of unfit structures.
- 13-406. When public officer may repair, etc.
- 13-407. When public officer may remove or demolish.
- 13-408. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-409. Basis for a finding of unfitness.
- 13-410. Service of complaints or orders.
- 13-411. Enjoining enforcement of orders.
- 13-412. Additional powers of public officer.
- 13-413. Powers conferred are supplemental.
- 13-414. Structures unfit for human habitation deemed unlawful.

13-401. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the town 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 town. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-402. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Municipality" shall mean the Town of Livingston, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(3) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(4) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

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

(6) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

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

(8) "Structures" shall mean any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-403. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-404. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town 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 investigate the charges. If the preliminary investigation discloses a basis for such charges, the public officer will 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 (10) days nor more than thirty (30) days after the service of the complaint; and the owner or 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 same time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearing before the public officer. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*, and replaced by Ord. #2020-8-1, Sept. 2000 *Ch1_09-08-20*)

13-405. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order.

(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, during the time specified in the order, to repair, alter, or improve such structure to render

it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-406. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-407. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-408. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Overton County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such

sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Overton 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 provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the Town of Livingston to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-409. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation 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 Town of Livingston; 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; and uncleanliness. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-410. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is 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 town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the 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 Overton County Tennessee, and such filing shall have the same force and effect as other *lis pendens* notices provided by law. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-411. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit 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 suit in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-412. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the town 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. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

13-413. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

3-414. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town 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 town.

(1) Any occupied structure declared unfit for human occupation or use shall be immediately vacated as ordered by the public officer designated or appointed to exercise the powers prescribed by any ordinance adopted pursuant to the authority of this part.

(2) Any person who violates an order to vacate a structure declared unfit for human occupation or use commits a Class B misdemeanor.

(3) Any owner, manager, or person responsible for a structure declared unfit for human occupation or use who authorizes or facilitates the occupancy of the structure commits a Class B misdemeanor. (as added by Ord. #2019-4-1, May 2019 *Ch1_09-08-20*)

CHAPTER 5

JUNKYARDS

SECTION

- 13-501. Definitions.
- 13-502. Junkyard screening.
- 13-503. Screening methods.
- 13-504. Requirements for effective screening.
- 13-505. Maintenance of screens.
- 13-506. Utilization of highway right-of-way.
- 13-507. Non-conforming junkyards.
- 13-508. Permits and fees.
- 13-509. Initiation of proceedings; hearings.
- 13-510. Orders to owners of junkyards.
- 13-511. Service of complaints or orders.
- 13-512. Remediation.
- 13-513. Enjoining enforcement of orders.
- 13-514. Compliance with the Tennessee Code Annotated.

13-501. Definitions. (1) "Junk" shall mean 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" shall mean 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, 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. All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated. Such yards shall be maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

(3) "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.

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

(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 town.

(6) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-502. 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. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-503. 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 wood 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. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-504. 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 town. 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.

(5) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six feet (6') in height, such fence to be built so that it will be impossible for stray cats and/or stray clogs to have access to such junkyards. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-505. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure 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. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-506. 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. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-507. Non-conforming junkyards. Those junkyards within the town and lawfully in existence prior to the enactment of this code which do not conform to the provisions of the code shall be considered as "non-conforming." Such junkyards may be subject to the following conditions any violation of which shall terminate the non-conforming 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 town.

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

(6) The junkyard must be on property properly zoning for such a use. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-508. Permits and fees. It shall be unlawful for any junkyard located within the town to operate without a "junkyard control permit" issued by the town.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The town'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 town.

(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. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

3-509. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a resident of the town charging that a junkyard appears in violation of this code, or whenever it appears to the public officer (on his own motion) that a violation is apparent, the public officer shall investigate the charges. If the preliminary investigation discloses a basis for such charges, the public officer will issue and cause to be served upon the owner of and parties in interest of such junkyard 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 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. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*, and replaced by Ord. #2020-8-1, Sept. 2020 *Ch1_09-08-20*)

13-510. Orders to owners of junkyards. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the junkyard is in violation of this code, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-511. 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 person is 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 town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the 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 Overton County Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-512. Remediation. The owner of the property shall have one hundred twenty (120) days after service of the order to properly remediate the situation and bring the property into compliance with this code. Failure to do so shall cause a citation to be issued and the Livingston Municipal Court may impose a fine of fifty dollars (\$50.00) per day that the property remains in violation, in addition to court costs.

(1) Any person who establishes, operates or maintains a junkyard, or who fails to comply with this code commits a Class C misdemeanor.

(2) Each day's subsequent violation constitutes a separate offense. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-513. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit 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 suit in the court. The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

13-514. Compliance with the Tennessee Code Annotated. Nothing in this code shall relieve the owner of a junkyard from the obligation to comply with the requirements pursuant to Tennessee Code Annotated, § 54-20-101, et seq. entitled "Junkyard Control Act of 1967." (as added by Ord. #2019-5-1, June 2019 *Ch1_09-08-20*)

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, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members. One (1) member shall be the mayor of the municipality and one (1) member shall be an alderman selected by the board of mayor and aldermen. The other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) appointive members of the planning commission shall be for three (3) years each. However, initially, in order to stagger the terms of the five (5) appointive members, two (2) shall be appointed for three (3) years, two (2) for two (2) years and one (1) for one (1) year. The terms of the mayor and the member selected from the board of mayor and aldermen shall run concurrently with their membership on the board. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor who shall also have authority to remove any appointive member at his pleasure. (1989 Code, § 11-101)

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. (1989 Code, § 11-102, modified)

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 Town of Livingston shall be governed by Ordinance #_____, titled "Zoning Ordinance, Livingston, Tennessee," and any amendments thereto.¹

¹Ordinance #_____, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

Amendments to the zoning map are of record in the office of the city recorder.

CHAPTER 3

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

14-301. Flood damage control to be governed by flood damage prevention ordinance.

14-301. Flood damage control to be governed by flood damage prevention ordinance. Regulations governing flood damage control within the Town of Livingston shall be governed by Ordinance #_____, titled "Flood Damage Prevention Ordinance" and any amendments thereto.¹

¹Ordinance #_____, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING¹****CHAPTER**

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. ABANDONED AND/OR JUNKED MOTOR VEHICLES.

CHAPTER 1**MISCELLANEOUS****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.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.
- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

15-122. Bicycle riders, etc.

15-123. Adoption of state traffic statutes.

15-124. Compliance with financial responsibility law required.

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. (1989 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1989 Code, § 9-106)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1989 Code, § 9-107)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1989 Code, § 9-109)

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1989 Code, § 9-110)

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1989 Code, § 9-111)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1989 Code, § 9-112)

15-108. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1989 Code, § 9-113)

15-109. General requirements for traffic-control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U.S. Department of Transportation, Federal Highway administration and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as mandatory but is merely directive. (1989 Code, § 114)

15-110. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, 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. (1989 Code, § 9-115)

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

²This document may be obtained at: mutcd.fhwa.dot.gov.

15-111. Presumption with respect to traffic-control signs, etc.

When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1989 Code, § 9-116)

15-112. School safety patrols.

All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1989 Code, § 9-117)

15-113. Driving through funerals or other processions.

Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1989 Code, § 9-118)

15-114. Clinging to vehicles in motion.

It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1989 Code, § 9-120)

15-115. Riding on outside of vehicles.

It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1989 Code, § 9-121)

15-116. Backing vehicles.

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1989 Code, § 9-122)

15-117. Projections from the rear of vehicles.

Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (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. (1989 Code, § 9-123)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1989 Code, § 9-124)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1989 Code, § 9-125)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1989 Code, § 9-126)

15-121. Damaging pavements. No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1989 Code, § 9-119)

15-122. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle 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, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle 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.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

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 or motor driven cycle in violation of this section.

No person shall operate or ride upon any motorcycle, motorbike, or motor driven cycle unless such person is equipped with and wearing on the head a safety helmet with a secured chin strap and suspension lining, which said helmet shall conform to the type and design manufactured for the use of the operators and riders of such motor vehicles. (1989 Code, § 9-127)

15-123. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, the Town of Livingston adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, and

§§ 55-8-133 through 55-8-180. Additionally, the Town of Livingston adopts Tennessee Code Annotated, §§55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606, § 55-12-139 and § 55-21-108 by reference as if fully set forth in this section. (as added by Ord. #2010-4-1, May 2010 *Ch1_09-08-20*)

15-124. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision 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.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety or the Interstate Commerce Commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of

failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #2010-4-2, May 2010 ***Ch1_09-08-20***)

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. (1989 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1989 Code, § 9-103)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1989 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1989 Code, § 9-105)

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. (1989 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1989 Code, § 9-202)

15-303. In school zones. Generally, pursuant to Tennessee Code Annotated, § 55-8-152, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

When the governing body has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) 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. (1989 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1989 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1989 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1989 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1989 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1989 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1989 Code, § 9-305)

CHAPTER 5

¹State law reference

Tennessee Code Annotated, § 55-8-143.

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1989 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1989 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1989 Code, § 9-403)

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1989 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1989 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1989 Code, § 9-406)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

- (1) Green alone, or "Go":
 - (a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
 - (b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (2) Steady yellow alone, or "Caution":
 - (a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
 - (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.
- (3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1989 Code, § 9-407)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1989 Code, § 9-408)

15-509. 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. (1989 Code, § 9-409)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1989 Code, § 9-410)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Presumption with respect to illegal parking.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this 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. (1989 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1989 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1989 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen feet (15') thereof.
- (4) Within fifteen feet (15') of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within fifty feet (50') of a railroad crossing.
- (7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance.
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (10) Upon any bridge.
- (11) Alongside any curb painted yellow or red by the city. (1989 Code, § 9-504)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1989 Code, § 9-505)

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the city, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be regulated by parking meters where the same have been installed by the city. The presumption shall be that all installed parking meters were lawfully installed by the city. (1989 Code, § 9-506)

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (1989 Code, § 9-507)

15-608. Unlawful parking in parking meter spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (1989 Code, § 9-508)

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters. (1989 Code, § 9-509)

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1989 Code, § 9-510)

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1989 Code, § 9-511)

15-612. 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. (1989 Code, § 9-512)

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.
- 15-706. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1989 Code, § 9-601)

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. (1989 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1989 Code, § 9-603, 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

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

vehicle whose operator is arrested or any unattended vehicle which is illegally parked, abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an 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, or until otherwise lawfully disposed of. (1989 Code, § 9-604, modified)

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 through 55-16-109. (1989 Code, § 9-605)

15-706. Violation and penalty. Any violation of this chapter shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of one dollar (\$1.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued, his fine shall be three dollars (\$3.00).

(b) Other parking violations. For other parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant is issued for his arrest, his civil penalty shall be five dollars (\$5.00). (1989 Code, § 9-603, modified)

CHAPTER 8

ABANDONED AND/OR JUNKED MOTOR VEHICLES

SECTION

- 15-801. Definitions.
- 15-802. Storage of vehicles on public property.
- 15-803. Abandonment of vehicles.
- 15-804. Wrecked or discarded vehicles.
- 15-805. Impoundment.
- 15-806. Notice of impoundment.
- 15-807. Disposition of unclaimed vehicles.
- 15-808. Penalties.

15-801. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.

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

(2) "Vehicle" - any machine propelled by power other than human power designed to travel along the ground by use of wheels, tread, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

(3) "Property" - any real property within the city which is not a street or highway.

(4) "Abandoned motor vehicle" - a motor vehicle that is over four (4) years old and is left unattended on public property for more than thirty (30) days, or a motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours. (Ord. #2000-1-1, Feb. 2000)

15-802. Storage of vehicles on public property. No person shall use any street, sidewalk, alley, or other publicly owned property within the city for the purpose of storing vehicles. This chapter shall not be construed as affecting in any way the right of any person to park a vehicle temporarily in any space set aside and designated as a parking space for vehicles.

Any vehicle which is permitted to remain on any street, sidewalk, alley, or other publicly owned property, for a period of forty-eight (48) hours without being moved, shall be presumed to be stored in the meaning of this chapter. (Ord. #2000-1-1, Feb. 2000)

15-803. Abandonment of vehicles. No person shall abandon any vehicle on any property within the city or leave any vehicle any place within the

city for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (Ord. #2000-1-1, Feb. 2000)

15-804. Wrecked or discarded vehicles. No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any dismantled, partially dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property longer than ten (10) days; and no person shall leave any such vehicle on any property within the city for longer than ten (10) days; except that this chapter shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, or a vehicle in any appropriate storage place or depository maintained in a lawful place and manner by the city. (Ord. #2000-1-1, Feb. 2000)

15-805. Impoundment. The city recorder or his authorized representative is hereby empowered to remove any vehicle found in violation of §§ 15-802, 15-803 or 15-804 of this code to a safe and secure place designated by him for that purpose. (Ord. #2000-1-1, Feb. 2000)

15-806. Notice of impoundment. Whenever the city recorder removes any vehicle, by authority of this chapter, he shall thereupon undertake to determine the owner of such vehicle. Upon ascertaining the name of the owner, he shall give notice to him, by certified mail, return receipt requested, that the vehicle is being held. Any owner, may, thereupon, present to the city recorder sufficient evidence of ownership and upon payment of cost of removal of such vehicle and a reasonable cost not to exceed five dollars (\$5.00) per diem for the storage thereof, the same shall be released to the owner thereof. (Ord. #2000-1-1, Feb. 2000)

15-807. Disposition of unclaimed vehicles. In the event a vehicle removed from public property under this chapter is not claimed during the period of thirty (30) days from date of removal, the city manager shall proceed to sell such vehicle at public auction for cash to the highest bidder and out of the proceeds of the sale, he shall first defray the expenses of the sale, the expenses of removal and storage of the vehicle and the remainder, if any, shall be paid in the general fund in the city. (Ord. #2000-1-1, Feb. 2000)

15-808. Penalties. Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause of this code. (Ord. #2000-1-1, Feb. 2000)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.

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. (1989 Code, § 12-201)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (1989 Code, § 12-202)

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

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1989 Code, § 12-203)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1989 Code, § 12-204, modified)

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 board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1989 Code, § 12-205, modified)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1989 Code, § 12-206, modified)

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. (1989 Code, § 12-207)

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.

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. (1989 Code, § 12-208)

16-110. Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder

¹Municipal code reference

Building code: title 12, chapter 1.

unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1989 Code, § 12-209)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law; nor shall he make such crossing at a speed in excess of twenty-five (25) miles per hour. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1989 Code, § 12-210)

16-112. 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 to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1989 Code, § 12-211)

CHAPTER 2

EXCAVATIONS AND CUTS

SECTION

16-201. Permit required.

16-202. Applications.

16-203. Deposit or bond.

16-204. Manner of excavating--barricades and lights--temporary sidewalks.

16-205. Restoration of streets, etc.

16-206. Insurance.

16-207. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, 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 recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1989 Code, § 12-101, modified)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. An application fee, to be set by the board of mayor and aldermen, shall be paid at the time the application is filed. (1989 Code, § 12-103, modified)

16-203. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of

restoration, the mayor may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration.

The municipality shall keep an accurate record of all expenses incurred in making and properly closing each requested excavation in a public street, alley, sidewalk or right-of-way and shall charge such expenses to the person applying for the work. (1989 Code, § 12-104, modified)

16-204. Manner of excavating–barricades and lights–temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1989 Code, § 12-105, modified)

16-205. 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 said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the 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.

16-206. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating

that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each accident, and for property damages not less than fifty thousand dollars (\$50,000.00). (1989 Code, § 12-102, modified)

16-207. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1989 Code, § 12-106)

TITLE 17

REFUSE AND TRASH DISPOSAL

[RESERVED FOR FUTURE USE]

TITLE 18**WATER AND SEWERS¹****CHAPTER**

1. WATER.
2. GENERAL WASTEWATER REGULATIONS.
3. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
4. CROSS CONNECTIONS.
5. STORMWATER MANAGEMENT ORDINANCE.

CHAPTER 1**WATER****SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Main extensions to developed areas.
- 18-108. Main extensions to other areas.
- 18-109. Variances from and effect of preceding rules as to extensions.
- 18-110. Meters.
- 18-111. Meter tests.
- 18-112. Schedule of rates.
- 18-113. Multiple services through a single meter.
- 18-114. Billing.
- 18-115. Discontinuance or refusal of service.
- 18-116. Re-connection charge.
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- 18-122. Supply and resale of water.
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¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

- 18-124. Limited use of unmetered private fire line.
- 18-125. Damages to property due to water pressure.
- 18-126. Liability for cut-off failures.
- 18-127. Restricted use of water.
- 18-128. Interruption of service.

18-101. Application and scope. These rules and regulations are a part of all contracts for receiving water service from the municipality and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1989 Code, § 13-101)

18-102. Definitions. (1) "Municipality" means the municipal governing body, and its duly authorized officers and agents.

(2) "Person" includes firms and corporations, as well as an individual.

(3) "Customer" means any person who receives water service from the municipality under either an express or implied contract requiring such person to pay the municipality for such service.

(4) "Household" means any two (2) or more persons living together as a family group.

(5) "Service line" shall consist of the pipe line extending from any water main of the municipality to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the municipality's water main, to and including the meter and meter box.

(6) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is expressly required by an agreement approved by the municipality. The discount date is the last date upon which water bills can be paid at net rates.

(7) "Dwelling" means any single structure, with auxiliary buildings, occupied by one (1) or more persons or households for residential purposes.

(8) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1989 Code, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made with a duly appointed employee of the municipality and be fully approved before connection or meter installation orders will be issued and work performed. (1989 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water service will be required to sign a standard form of contract before service is supplied. If, for any reason, a customer, after signing a contract for water service, does not take the service by reason of not occupying

the premises or otherwise, he shall reimburse the municipality for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the municipality to render the service applied for. If the service applied for cannot be supplied in accordance with these rules, regulations, and general practice, the liability of the municipality to the applicant for such service shall be limited to the return of any deposit made by such applicant. (1989 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1989 Code, § 13-105)

18-106. Connection charges. For properties with existing service links, the connection fee is twenty-five dollars (\$25.00). Service lines will be laid by the municipality from the water main to the property line at the expense of the applicant for service. The location of such lines will be determined by the municipality.

Before a new service line will be laid by the municipality, the applicant shall make a deposit of the following amount with the municipality:

(1) For a three-quarters of an inch (3/4") or a one inch (1") service line, the cost of which is not estimated to exceed the amount of the applicable deposit provided hereunder:

- | | |
|---|---------|
| (a) In a dirt or a macadam street | \$50.00 |
| (b) In an oil macadam or other paved street | \$60.00 |

(2) For a three-quarters of an inch (3/4") or a one inch (1") service line, the cost of which is estimated to exceed the amount of applicable deposit provided in paragraph (1) above, and for all service lines over one inch (1") in diameter, the cost as estimated by the municipality.

This deposit shall be used to pay the cost of laying such a new service line and appurtenant equipment. If such cost exceeds the amount of the deposit, the applicant shall pay to the municipality the amount of such excess cost when billed therefor. If such cost is less than the amount of the deposit, the amount by which the deposit exceeds such cost shall be refunded to the applicant.

When a service line is completed, the municipality shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the municipality. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer. Notwithstanding anything elsewhere herein provided, the municipality shall not be responsible for the maintenance and upkeep of any service line located within the property line of the customer, even though the meter and meter box are located within said property line. (1989 Code, § 13-106)

18-107. Main extensions to developed areas. The provisions of this section shall apply only to water main extensions of five hundred feet (500') or less to areas where there is a demand for water service by the occupants of existing houses. This section shall in no event be applicable to land development projects and subdivision promotion, even though accompanied by the erection of occasional houses within such areas.

Owners of property to be served by a proposed water main extension of the character to which this section applies shall pay to the municipality the regular charge for each connection desired immediately and shall also assume one minimum monthly bill for each one hundred feet (100'), or fraction thereof, of said proposed extension, the connection charge to be paid and the agreement to pay minimum monthly bills to be signed before the work is begun. The municipality shall require a cash deposit as security for such minimum bill agreement, in an amount that does not exceed the estimated cost of the main extension, before making any such requested extension. Beginning with the completion of the water main extension, such persons shall pay water bills at least equal to the minimum monthly charges agreed upon, until the obligation for the payment of such minimum monthly water bills shall have been assumed by other persons acceptable to the municipality. (1989 Code, § 13-107)

18-108. Main extensions to other areas. The provisions of this section shall apply to all areas to which the preceding section is not applicable. Customers desiring water main extensions pursuant to this section must pay all of the cost of making such extensions.

For installations under this or the preceding section cement-lined cast iron pipe, class 150 American Water Works Assn. Standard, not less than six inches (6") in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than one thousand feet (1,000') from the most distant part of any dwelling structure and no farther than six hundred feet (600') from the most distant part of any commercial, industrial or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe two (2") inches in diameter, to supply dwellings only, may be used to supplement such lines. All such lines shall be installed either by municipal forces or by other forces working directly under the supervision of the municipality.

Upon completion of such extensions and their approval by the municipality, such water mains shall become the property of the municipality. The persons paying the cost of constructing such mains shall execute any written instruments requested by the municipality to provide evidence of the municipality's title to such mains. In consideration of such mains being transferred to it, the municipality shall incorporate said mains as an integral part of the municipal water system and shall furnish water therefrom in accordance with these rules and regulations, subject always to such limitations

as may exist because of the size and elevation of said mains. As further consideration, the municipality shall repay to the person or persons paying the cost of such a water main extension, for a period of five (5) years, but no longer, from the date of completion of said extension the sum of fifty dollars (\$50.00) for each tap that is made to such main extension; provided, however, that the total payments shall in no event exceed the cost of the said extension paid by such person or persons. Provided also, that before making any such payment the municipality shall have the right to require that the customer making the connection in question shall sign a contract for water service for a period of time to be fixed by the municipality, but not to exceed three (3) years.

No repayment shall be made for service line connections not made directly to the water main extension in question, even through such service line connections are made to a main extended from, or receiving water through, the main extension in question. (1989 Code, § 13-108)

18-109. Variances from and effect of preceding rules as to extensions. Whenever the municipal governing body is of the opinion that it is to the best interest of the water system to construct a water main extension without requiring strict compliance with the preceding two sections, such extension may be constructed upon such terms and conditions as shall be approved by a majority of the members of the municipal governing body.

The authority to make water main extensions pursuant to the preceding two sections is permissive only and nothing contained therein shall be construed as requiring the municipality to make water main extensions or to furnish service to any person or persons. (1989 Code, § 13-109)

18-110. Meters. All meters shall be installed, tested, repaired, and removed by the municipality.

No one shall do anything which will in any way interfere with or prevent the proper registration of a meter. No one shall tamper with or work on a water meter without the written permission of the municipality. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1989 Code, § 13-110)

18-111. Meter tests. The municipality will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%

<u>Meter Size</u>	<u>Percentage</u>
4"	4%
6"	5%

The municipality will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the municipality. (1989 Code, § 13-111)

18-112. Schedule of rates. All water furnished by the municipality shall be measured or estimated in gallons to the nearest multiple of one thousand (1,000) and shall be furnished under such rate schedules as the municipality may from time to time prescribe. (1989 Code, § 13-112)

18-113. Multiple services through a single meter. No customer shall supply water service to more than one (1) dwelling or premise from a single service line and meter without first obtaining the written permission of the municipality.

Where the municipality allows more than one (1) dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water charge for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the municipality's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1989 Code, § 13-113)

18-114. Billing. Bills for residential service will be rendered monthly. Bills for commercial and industrial service may be rendered weekly, semi-monthly, or monthly, at the option of the municipality.

Water bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before the discount date, service may be discontinued without notice to customer and not again resumed until paid, and the municipality shall not be liable for damages on account of discontinuing service at any time after the discount date, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment of the net rate will be accepted by the municipality if the envelope is date stamped on or before the final date for payment of the net amount.

No customer shall be entitled to pay any bill at the net rate while such customer is delinquent in the payment of any other obligation owed the municipality by such customer.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the municipality reserves the right to render an estimated bill based on the best information available. (1989 Code, § 13-114)

18-115. Discontinuance or refusal of service. The board shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with, any provision of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.
- (4) The payment of any obligation due the municipality, including any required deposit.

Such right to discontinue service shall apply to all service received through a single tap or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one (1) such customer or tenant.

Discontinuance of service by the municipality for any causes stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

The municipality shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, company, or firm to which such service is to be furnished, is in default in the payment of any

obligation to the municipality or has theretofore had his service discontinued because of a violation of these rules and regulations. (1989 Code, § 13-115)

18-116. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of twenty-five dollars (\$25.00) shall be collected by the municipality before service is restored. (1989 Code, § 13-116, as amended by Ord. #1995-10, Oct. 1995)

18-117. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the municipality reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the municipality shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the municipality should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the municipality to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1989 Code, § 13-117)

18-118. Access to customers' premises. The municipality's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the municipality, and for inspecting customer's plumbing and premises generally in order to secure compliance with these rules and regulations. (1989 Code, § 13-118)

18-119. Inspections. The municipality shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The municipality reserves the right to

refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the municipality.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the municipality liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1989 Code, § 13-119)

18-120. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by the municipality shall be and remain the property of the municipality. Each customer shall provide space for and exercise proper care to protect the property of the municipality on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1989 Code, § 13-120)

18-121. Customer's responsibility for violations. Where the municipality furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1989 Code, § 13-121)

18-122. Supply and resale of water. All water shall be supplied within the municipality exclusively by the municipality, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the municipality. (1989 Code, § 13-122)

18-123. Unauthorized use or interference with water supply. No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, fire plugs, or valves without permission or authority from the municipality. (1989 Code, § 13-123)

18-124. 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 municipality.

All private fire hydrants shall be sealed by the municipality, 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 municipality a written notice of such occurrence. (1989 Code, § 13-124)

18-125. Damages to property due to water pressure. The municipality shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the municipality's water mains. (1989 Code, § 13-125)

18-126. Liability for cut-off failures. The municipality's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a water service, the municipality has failed to cut off such service.

(2) The municipality has attempted to cut off a service but such service has not been completely cut off.

(3) The municipality has completely cut off a service, but subsequently, the cut-off develops a leak or is turned on again so that water enters the customer's pipes from the municipality's main.

Except to the extent stated above, the municipality shall not be liable for any loss or damage resulting from cut-off failures. If a customer wishes to avoid possible damages for cut-off failures, the customer shall rely exclusively on privately owned cut-offs and not on the municipality's cut-off. Also, the customer (and not the municipality) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1989 Code, § 13-126)

18-127. Restricted use of water. In times of emergencies or in times of water shortage, the municipality reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use or hours or usage. (1989 Code, § 13-127)

18-128. Interruption of service. The municipality will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The municipality shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water system, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The municipality shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1989 Code, § 13-128)

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 Town of Livingston, Tennessee, wastewater treatment system and enables the Town 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 town 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 Town of Livingston 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 town who are, by implied contract or written agreement with the town, dischargers of

applicable wastewater to the wastewater treatment facility. Chapter 3 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 3 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. (Ord. #140, Aug. 1988, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

18-202. Administrative. Except as otherwise provided herein, the mayor shall serve as the local administrative officer of the town and shall administer, implement, and enforce the provisions of this chapter. The board of mayor and aldermen shall serve as the local hearing authority. (Ord. #140, Aug. 1988, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "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.

(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 insure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been

assigned or delegated to the manager in accordance with 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 paragraphs (a)-(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 town.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-209 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(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 centigrade (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 or Pretreatment Standard as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "Town." The Board of Mayor and Aldermen, Town of Livingston, 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." Shall mean 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 town'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 term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the town 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 town under either an express or implied contract requiring payment to the town 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-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 board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-305.

(35) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(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; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is 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 parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including 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 paragraph

(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, po-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 section 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 WWF, Wastewater Facility, found in definition number (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; and

(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 wastestream 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 section § 18-305(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight 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 superintendent.

(56) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(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 in Tennessee Code Annotated, § 68-221-201.

(62) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(63) "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.

(64) "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.

(65) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (Ord. #140, Aug. 1988, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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 town, 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 town any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or town 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 (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) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (Ord. #140, Aug. 1988, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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 town. 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 town 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 town and the county health department. (Ord. #140, Aug. 1988, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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 a special form furnished by the town. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the town. Industrial user discharge permit fees may also apply. The receipt by the town of a prospective customer's application for connection shall not obligate the town to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the town'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 town to the applicant for such service.

(b) Users shall notify the town 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 town 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, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this ordinance shall be completely and permanently disconnected within sixty (60) days of the effective day 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 hereof. The town shall make all connections to the public sewer upon the property owner first submitting a connection application to the town.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the town 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 town 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 town 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 building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system - four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four inch (4") sewers - one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2.0') 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, within five feet (5') of 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 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 town and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gas-tight 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 town or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the town. Owners failing to maintain or repair building sewers or who allow storm water or ground water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the town. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works, located at <http://www.state.tn.us/environment/wpc/publications/>. Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the town. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer

service. (Ord. #140, Aug. 1988, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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 differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the town.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the town.

(b) Pumps must be approved by the town and shall be maintained by the property owner or user.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the town. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the town and connection will be made to the town sewer only after inspection and approval of the town.

(4) Ownership and easements. Homeowners or developers shall provide the town with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the town to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the town. However, pumping required more frequently than once every five years shall be billed to the homeowner.

(7) Additional charges. The town shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost

of the service call. (Ord. #140, Aug. 1988, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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 town to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the town to be set as specified in § 18-307. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his discretion

where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the Town of Livingston.

(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 superintendent this approval may require testing, flow

monitoring and record keeping. (Ord. #140, Aug. 1988, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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 may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-210 or 18-305. 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, wastestreams 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 any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders; sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the

WWF which exceeds forty degrees 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 non-compliance 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 superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations

of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 3 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria, unless specifically allowed by their discharge permit according to chapter 3 of this title. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A Plant Protection Criteria

Parameter	Maximum Concentration (mg/l)
Arsenic	0.008418
Benzene	0.01304
Cadmium	0.000370
Carbon Tetrachloride	1.5
Chloroform	0.2236
Chromium (total)	0.13228

Parameter	Maximum Concentration (mg/l)
Copper	0.050
Cyanide	0.0140
Ethybenzene	0.040
Lead	0.037
Mercury	0.00029
Methylene chloride	0.096
Molybdenum	0.00308
Naphthalene	0.0125
Nickel	0.0457
Phenol	0.45455
Selenium	0.00411
Silver	0.02941
Tetrachloroethylene	0.1388
Toluene	0.21429
Total Phthalate	0.16974
Tr ichlorethlene	0.100
1, 1, I-Trichloroethane	0.250
1,2 Transdichloroethylene	0.0075
Zinc	0.080

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may

be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one half inch (1/2")

or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable town 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 town 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 town. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the town has under this chapter, or state or federal law. The town 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 town is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under § 18-302 to regulate the discharge of fat, oil and grease. (Ord. #140, Aug. 1988, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

18-210. Enforcement and abatement. Violators of these wastewater regulations may be cited to town court, general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the town 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 3. Repeated or continuous violation of this ordinance is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The town may take any or all the following remedies:

(1) Cite the user to town or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (as added by Ord. #2020-7-1, Aug. 2020 ***Ch1_09-08-20***)

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.
- 18-309.--18-311. Deleted.

18-301. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) 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) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as Local Limits, Table B or other applicable state and federal pretreatment rules which may take effect after the passage of this ordinance.

Table B - Local Limits

Pollutant	Monthly Average* Maximum Concentration (mg/l)	Daily Maximum Concentration (mg/l)
Arsenic	0.205	0.41
Benzene	0.318	0.636
Cadmium	0.090	0.18
Carbon tetrachloride	36.679	73.358
Chloroform	5.347	10.694
Chromium (total)	3.234	6.468
Copper	1.222	2.444
Cyanide	0.343	0.686
Ethybenzene	0.978	1.956
Lead	0.927	1.854
Mercury	0.007	0.014
Methylene chloride	2.351	4.702
Molybdenum	0.075	0.15
Napthalene	0.305	0.61
Nickel	0.508	1.016
Phenol	11.115	22.23
Selenium	0.100	0.200
Silver	0.719	1.438
Tetrachloroethylene	3.396	6.792
Toluene	5.239	10.478
Total phthalate	4.150	8.300
Trichlorethlene	2.445	4.890
1,1,1-Trichoroethane	6.113	12.226

Pollutant	Monthly Average* Maximum Concentration (mg/l)	Daily Maximum Concentration (mg/l)
1,2 Transdichloroethylene	0.183	0.366
Zinc	1.956	3.912

*Based on twenty-four (24) hour flow proportional composite samples unless specified otherwise.

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge limits. Maximum concentrations may also be established for some users.

Table C - Surcharge and Maximum Limits

Parameter	Surcharge Limit	Maximum Concentration
Ammonia as nitrogen	15 mg/L	20 mg/L
Oil and grease	30 mg/L	50 mg/L
BOD	300 mg/L	400 mg/L
Suspended solids	300 mg/L	400 mg/L

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the town the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency. (Ord. #2004-2-1, March 2004, as replaced by Ord. #2020-7-1, Aug. 2020 **Ch1_09-08-20**)

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 superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the town sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-206 and an inspection has been performed by the superintendent or his representative. The receipt by the town of a prospective customer's application for connection shall not obligate the town to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the town's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the town 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 superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the town 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 town 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 paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(iv) The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater discharge permit subject to terms and conditions provided herein.

(v) The receipt by the town of a prospective customer's application for wastewater discharge permit shall not obligate the town to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the town's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the town to the applicant of such service.

(vi) 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.

(vii) 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 town.

(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;

(G) Requirement to notify the WWF immediately if changes in the users 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 town, and affording town access thereto;

(F) Requirements for notification of the town 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;

(I) Other conditions as deemed appropriate by the town to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written

approval of the town. 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;

(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 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 town'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. (Ord. #2004-2-1, March 2004, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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 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 town 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 town 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 town, 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 town will utilize qualified town 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 town, 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 town 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 town employees and the town shall indemnify the company against loss or damage to its property by town 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. (Ord. #2004-2-1, March 2004, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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(l)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in paragraph (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in

paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) Identifying information. The user name, 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 wastestream formula.

(v) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this 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 wastestream. formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods;

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(i) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal, work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-304(2).

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-304(14) and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-304(1)(d):

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events

include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation),

(b) No increment referred to above shall exceed nine (9) months,

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, 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 superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in section § 18-304(1)(b)(iv) and (v). 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 superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-301 of this chapter.

(b) The superintendent 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 superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at 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 superintendent as the superintendent may require to determine users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the town performs sampling at the user's facility at least once a month, or if the town performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the town receives the results of this sampling, or if the town 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 wastestream discharged during that calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-304(5). The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-304(1), (3), and(4).

(b) Dischargers are exempt from the requirements of paragraph (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-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 superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued there under, 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 BPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in sections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the town, 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 town, 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 superintendent 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) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, 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 section § 18-308. 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 town, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment pro gram 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. (Ord. #2004-2-1, March 2004, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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 Livingston 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 section 18-305(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 (i) through (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 town 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 town 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 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 town 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:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, 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 subdivision (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 Overton 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 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 (b).

(viii) Any person to whom an emergency order is directed under § 18-305(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than

three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (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.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the town resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in the WWF's exercise of its emergency authority under § 18-305(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(a) 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.

(b) 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.

(c) Failure to accurately report noncompliance.

(d) 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.

(e) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours. Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).¹

(7) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (C), (D) or (B) 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

¹Appendix A, Enforcement Response Plan Guide Table, is available in the recorder's office.

(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 as defined by § 18-307 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWF personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance; or

(g) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(h) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(8) 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. (Ord. #2004-2-1, March 2004, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

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 ordinance.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A¹ to impose sanctions or penalties for the violation of this chapter. (Ord. #2004-2-1, March 2004, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

18-307. Fees and billing.² (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the town'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 town'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 town 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.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the town's sewer department at the time the application is filed.

(5) Sewer user charges. The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-307 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program.

¹Appendix A, Enforcement Response Guide Table, is available in the recorder's office.

²Such rates are reflected in administrative ordinances or resolutions; which are of record in the office of the town recorder.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violation are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may access 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 (Ord. #2004-2-1, March 2004, as replaced by Ord. #2020-7-1, Aug. 2020 <i>Ch1_09-08-20</i>)

18-308. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the town. (Ord. #2004-2-1, March 2004, as replaced by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

18-309.--18-311. Deleted. (Ord. #2004-2-1, March 2004, as deleted by Ord. #2020-7-1, Aug. 2020 *Ch1_09-08-20*)

CHAPTER 4

CROSS CONNECTIONS

SECTION

- 18-401. Purpose.
- 18-402. Definitions.
- 18-403. Compliance with state law.
- 18-404. Connections regulated.
- 18-405. Permit required.
- 18-406. Inspections.
- 18-407. Correction of violations.
- 18-408. Required devices.
- 18-409. Installation criteria.
- 18-410. Testing of devices.
- 18-411. Non-potable supplies.
- 18-412. Penalty; discontinuance of water supply.
- 18-413. Applicability.

18-401. Purpose. This chapter sets forth uniform requirements for the protection of the public water system for the Livingston Water Department from possible contamination, and enable the Livingston Water Department to comply with all applicable local, state and federal laws, regulations, standards or requirements, including the Safe Drinking Water Act of 1996, Tennessee Code Annotated, §§ 68-221-701 to 68-221-720 and the Rules and Regulations for Public Water Systems and Drinking Water Quality issued by the Tennessee Department of Environment and Conservation, Division of Water Supply.

The purpose of this chapter is to:

- (1) To protect the public potable water system of Livingston Water Department from the possibility of contamination or pollution by isolating within the customer's internal distribution system, such contaminants or pollutants that could backflow or backsiphon into the public water system;
- (2) To promote the elimination or control of existing cross connections, actual or potential, between the customer's in-house potable water system and non-potable water systems, plumbing fixtures, and industrial piping systems;
- (3) To provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (Ord. #2009-2-2, March 2009)

18-402. Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section, when used in the interpretation and enforcement of this chapter.

(1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than two inches (2"). Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than two inches (2").

(2) "Atmospheric vacuum breaker" shall mean a device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(3) "Auxiliary intake" shall mean any water supply, on or available to a premises, other than that directly supplied by the public water system. These auxiliary waters may include: water from another purveyor's public water system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.

(4) "Backflow" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross connection.

(5) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, steam and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross connection" shall mean any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water system as a result of backflow or backsiphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross connections.

(9) "Double check valve assembly" shall mean an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(10) "Double check detector assembly" shall mean an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of

the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(11) "Fire protection systems" shall be classified in six (6) different classes in accordance with AWWA Manual M14 - Second Edition 1990. The six (6) classes are as follows:

(a) Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

(b) Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

(c) Class 3 shall be those with direct connection from public water supply mains, plus one or more of the following; elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

(d) Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

(e) Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

(f) Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" shall mean any system of piping or other arrangements 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 system.

(13) "Person" shall mean 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.

(14) "Potable water" shall mean water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(15) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(16) "Public water supply" shall mean the Livingston Water Department, which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(17) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(18) "Manager" shall mean the manager of the Livingston Water Department or his duly authorized deputy, agent or representative.

(19) "Water system" shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility system shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system, up to the point where the customer's system begins (i.e. the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use. (Ord. #2009-2-2, March 2009)

18-403. Compliance with state law. The Livingston Water Department shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The Livingston Water Department shall comply with Tennessee Code Annotated, § 68-221-711, as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this chapter, which pertain to cross connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses. (Ord. #2009-2-2, March 2009)

18-404. Connections regulated. (1) No water service connection to any premises shall be installed or maintained by the Livingston Water Department unless the water supply system is protected as required by state laws and this chapter. Service of water to any premises shall be discontinued by

the Livingston Water Department if a backflow prevention device required by this chapter is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) 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 is at all times under the direction of the manager of the Livingston Water Department.

(3) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required, and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the Livingston Water Department shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this chapter. (Ord. #2009-2-2, March 2009)

18-405. Permit required. (1) New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the Livingston Water Department for approval and a permit.

(2) Existing alterations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval and permit from the Livingston Water Department. (Ord. #2009-2-2, March 2009)

18-406. Inspections. (1) The manager or his designated agent shall inspect all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and re-inspection shall be based on potential health hazards involved, and shall be established by the Livingston Water Department in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation.

(2) **Right of entry for inspections.** The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Livingston Water Department public water system for the purpose of inspecting the piping system therein for cross connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections, and shall be grounds for disconnection of water service. (Ord. #2009-2-2, March 2009)

18-407. Correction of violations. (1) Any person found to have 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 the existing conditions and an appraisal of the time required to complete the work, the manager or his representative shall assign an appropriate amount of time, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, the Livingston Water Department shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customer's on-site piping

in such a manner that the two systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing. (Ord. #2009-2-2, March 2009)

18-408. Required devices. (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading of the service line, when any of the following conditions exist:

(a) Impractical to provide an effective air gap separation;

(b) The owner/occupant of the premises cannot or is not willing to demonstrate to the Livingston Water Department that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;

(c) The nature and mode of operation within a premise are such that frequent alterations are made to the plumbing;

(d) There is likelihood that protective measures may be subverted, altered or disconnected;

(e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;

(f) The plumbing from a private well or other water source enters the premises served by the public water system.

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems and swimming pools with no permanent plumbing installed) approved by the Tennessee Department of Environment and Conservation and the Livingston Water Department, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the Livingston Water Department prior to installation and shall comply with the criteria set forth in this chapter. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Premises requiring reduced pressure principle assemblies or air gap separation. (a) High risk high hazards. Establishments which pose significant risk of contamination or may create conditions which pose an extreme hazard of immediate concern (High risk high hazards), the cross-connection control inspector shall require immediate or a short amount of time (fourteen (14) days maximum), depending on conditions, for corrective action to be taken. In such cases, if corrections have not been made within the time limits set forth, water service will be discontinued.

High risk high hazards require a reduced pressure principle (or detector) assembly. The following list is establishments deemed high risk high hazard and require a reduced pressure principle assembly:

- (b) High risk high hazards.
 - (i) Mortuaries, morgues, autopsy facilities;
 - (ii) Hospitals, medical buildings, animal hospitals and control centers, doctor and dental offices;
 - (iii) Sewage treatment facilities, water treatment, sewage and water treatment pump stations;
 - (iv) Premises with auxiliary water supplies or industrial piping systems;
 - (v) Chemical plants (manufacturing, processing, compounding, or treatment);
 - (vi) Laboratories (industrial, commercial, medical research, school);
 - (vii) Packing and rendering houses;
 - (viii) Manufacturing plants;
 - (ix) Food and beverage processing plants;
 - (x) Automated car wash facilities;
 - (xi) Extermination companies;
 - (xii) Airports, railroads, bus terminals, piers, boat docks;
 - (xiii) Bulk distributors and users of pesticides, herbicides, liquid fertilizer, etc.;
 - (xiv) Metal plating, pickling, and anodizing operations;
 - (xv) Greenhouses and nurseries;
 - (xvi) Commercial laundries and dry cleaners;
 - (xvii) Film laboratories;
 - (xviii) Petroleum processes and storage plants;
 - (xix) Restricted establishments;
 - (xx) Schools and educational facilities;
 - (xxi) Animal feedlots, chicken houses, and CAFOs;
 - (xxii) Taxidermy facilities;
 - (xxiii) Establishments which handle, process, or have extremely toxic or large amounts of toxic chemicals or use water of unknown or unsafe quality extensively.

(c) High hazards. In cases where there is less risk of contamination, or less likelihood of cross-connections contaminating the system, a time period of (ninety (90) days maximum) will be allowed for corrections. High hazard is a cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, cause death, illness, and spread disease. (See Appendix A of manual.)

(4) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections

for all medical facilities, all fountains, lawn irrigation systems, wells, water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by Livingston Water Department as needing protection.

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly, except:

(i) A double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems;

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5 and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(d) Swimming pools with no permanent plumbing and only filled with hoses will require a hose bibb vacuum breaker be installed on the faucet used for filling.

(5) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises. (Ord. #2009-2-2, March 2009)

18-409. Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required devices shall be installed in accordance with the provisions of this chapter, by a person approved by the Livingston Water Department who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair or test backflow prevention devices on fire protection systems.

(b) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device (except hose bibb vacuum breakers). All fittings shall be of brass construction, unless

otherwise approved by the Livingston Water Department, and shall permit direct connection to department test equipment.

(c) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(d) All devices shall be placed in the upright position in a horizontal run of pipe.

(e) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(f) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either;

- (i) The floor;
- (ii) The top of opening(s) in the enclosure; or
- (iii) Maximum flood level, whichever is higher.

Maximum height above the floor surface shall not exceed sixty inches (60").

(g) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in non-removable enclosures shall have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(h) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.

(i) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(j) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(k) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(l) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(m) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/backsiphonage through the drain may occur.

(n) Enclosures for outside installations shall meet the following criteria:

- (i) All enclosures for backflow prevention devices shall be as manufactured by a reputable company or an approved equal.

(ii) For backflow prevention devices up to and including two inches (2"), the enclosure shall be constructed of adequate material to protect the device from vandalism and freezing and shall be approved by the Livingston Water Department. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to and including two inches (2"), the enclosure shall be completely removable. Access for backflow prevention devices two and one-half inches (2 1/2") and larger shall be provided through a minimum of two (2) access panels. The access panels shall be of the same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad in no case less than four inches (4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of forty degrees (+40° F) Fahrenheit with an outside temperature of negative thirty degrees (-30° F) and a wind velocity of fifteen (15) miles per hour.

(o) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one device has been installed and the continuance of service is critical, the Livingston Water Department shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, the Livingston Water Department may require the installation of a duplicate device.

(p) The Livingston Water Department shall require the occupant of the premises to keep any backflow prevention devices working properly, and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to the Livingston Water Department. Expense of such repairs shall be borne by the owner for occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective shall constitute a violation of this chapter

and shall be 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 Livingston Water Department. (Ord. #2009-2-2, March 2009)

18-410. Testing of devices. Devices shall be tested at least annually by a qualified person possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A record of this test will be on file with the Livingston Water Department and a copy of this report will be supplied to the customer. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises. (Ord. #2009-2-2, March 2009)

18-411. Non-potable supplies. The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this chapter. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

WATER UNSAFE FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color-coding of pipelines, in accordance with (OSHA) Occupational Safety and Health Act guidelines, shall be required in locations where in the judgment of the Livingston Water Department, such coding is necessary to identify and protect the potable water supply.

Any person whose premises are supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the Livingston Water Department a statement of the nonexistence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (Ord. #2009-2-2, March 2009)

18-412. Penalty; discontinuance of water supply. (1) Any person who neglects or refuses to comply with any of the provisions of this chapter may be deemed guilty of a misdemeanor and subject to a fine.

(2) Independent of and in addition to any fines or penalties imposed, the manager may discontinue the public water supply service to any premises upon which there is found to be a cross connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross connection, auxiliary intake, bypass or interconnection has been eliminated. (Ord. #2009-2-2, March 2009)

18-413. Applicability. The requirements contained in this chapter shall apply to all premises served by the Livingston Water Department and are hereby made part of the conditions required to be met for the Livingston Water Department to provide water services to any premises. The provisions of this chapter shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the chapter is entitled to a due process hearing upon timely request. (Ord. #2009-2-2, March 2009)

CHAPTER 5

STORMWATER MANAGEMENT ORDINANCE

SECTION

- 18-501. General provisions.
- 18-502. Definitions and abbreviations.
- 18-503. Land disturbance permit.
- 18-504. Stormwater system design.
- 18-505. Post-construction.
- 18-506. Illicit discharges.
- 18-507. Enforcement.

18-501. General provisions. The purpose of this ordinance is as follows:

(1) Protect, maintain, and enhance the environment of the Town of Livingston (hereinafter referred to as "municipality" or "Livingston") and the public health, safety, and general welfare of the citizens of Livingston by controlling discharges of pollutants to Livingston's stormwater system; to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of Livingston.

(2) Allow the Town of Livingston to exercise the powers granted in Tennessee Code Annotated § 68-221-1105, which provides that among other powers municipalities have with respect to stormwater facilities is the power by ordinance or resolution to:

(a) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(b) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(c) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(d) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(e) Issue permits for stormwater discharges or for the construction, alteration, extension, or repair of stormwater facilities;

(f) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(g) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated;

(h) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(i) Administering entity: Livingston's Building and Zoning Department (stormwater entity) shall administer the provisions of this chapter.

(j) Stormwater management ordinance: The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater.

(2) Authority Having Jurisdiction (AHJ). The Town of Livingston Building Official (hereinafter referred to as "building official") of the Livingston Building and Zoning Department and any entities directed by Livingston to act on their behalf shall administer the provisions of this ordinance. This shall include, but not be limited to, grading and erosion control plan review, incentives negotiation, stormwater facilities maintenance, administration, and enforcement.

(3) Limits of jurisdiction. The jurisdictional limits shall be as established and defined by the latest version of the municipal zoning ordinance for Livingston, Tennessee.

(4) Waivers and variances. Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is approved to either waive this requirement or to meet the requirements with a variance. Requests to waive the requirements of this ordinance or to receive a variance shall be submitted to the building official for approval. Waivers and variances are issued at the sole discretion of a three (3) person stormwater variance committee appointed biannually by the mayor and must not result in the following conditions:

(a) Deterioration of existing culverts, bridges, dams, and other structures.

(b) Degradation of biological functions or habitat.

(c) Accelerated stream bank or stream bed erosion or siltation.

(d) Increased threat of flood damage to public health, life, or property.

(5) Site access. (a) Designated Livingston staff and their representatives shall have right-of-entry, at reasonable times, on or upon the property of any person subject to this ordinance, as well as access to any permit/document issued hereunder. Livingston staff shall be provided ready access to all parts of the premises for purposes of inspection, monitoring, sampling, inventory, records examination and copying, and performance of any other duties necessary to determine compliance with this ordinance.

(b) Designated Livingston staff shall have the right to set up on the property of any person subject to this ordinance such devices as are necessary to conduct sampling and/or flow measurements of the property's stormwater operations or discharges.

(c) Livingston officials have the right to determine and impose inspection schedules necessary to enforce provisions of this ordinance.

(6) Other ordinances, codes, and laws. If any provisions of this ordinance and any other provisions of law impose overlapping or contradictory regulations or if they contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. In cases where "more restrictive" is not clear or cannot be determined, the building official shall make the final determination. (as added by Ord. #2016-2-1, March 2016 *Ch1_09-08-20*)

18-502. Definitions and abbreviations. (1) Definitions. For the purpose of this regulation, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

Administrative or civil penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the municipality declares that any person violating the provisions of this chapter may be assessed a civil penalty by the municipality of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

As-built plans. Drawings depicting conditions as they were actually constructed.

Best Management Practices ("BMPs"). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Borrow pit. An excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

Buffer zone. A setback from the top of a water body's bank of undisturbed vegetation, including trees, shrubs, and herbaceous vegetation; enhanced or restored vegetation; or the reestablishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs, or lakes, which exists

or is established to protect those water bodies. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration, and evapotranspiration. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile or that are considered exceptional or impaired waters by TDEC will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. A determination that water quality buffer widths cannot be met on-site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as type of project, existing land use, and physical conditions that preclude use of these practices.

Channel. A natural or artificial watercourse, with a definite bed and banks, that conducts flowing water continuously or periodically.

Common plan of development or sale. Broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

Design storm event. A hypothetical storm event of a given frequency interval and duration, used in the analysis and design of a stormwater facility. The estimated design rainfall amounts for any return period interval (i.e., 2-yr, 5-yr, 25-yr, etc.) in terms of either twenty-four (24) hour depths or intensities for any duration can be found by accessing the following NOAA National Weather Service Atlas 14 data for Tennessee: http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn. Other data sources may be acceptable with prior written approval by TDEC Water Pollution Control.

Contaminant. Any physical, chemical, biological, or radiological substance or matter in water.

Discharge. Dispose of, deposit, spill, pour, inject, seep, dump, leak, or place by any means, or that which is disposed of, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means, including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

Easement. An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality, or other legal entity has in the land of another.

Erosion. Removal of soil particles by the action of water, wind, ice, or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

Erosion Prevention and Sediment Control Plan (EPSCP). A written plan (including drawings or other graphic representations) designed to minimize the erosion and sediment runoff at a site during construction activities.

Hotspot. An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses.

1. Vehicle salvage yards and recycling facilities
2. Vehicle service and maintenance facilities
3. Vehicle and equipment cleaning facilities
4. Fleet storage areas (bus, truck, etc.)
5. Industrial sites (included on Standard Industrial Classification code list)
6. Marinas (service and maintenance)
7. Public works storage areas
8. Facilities that generate or store hazardous waste materials
9. Commercial container nursery
10. Restaurants and food service facilities
11. Other land uses and activities as designated by an appropriate review authority

Illicit connections. Illegal and/or unauthorized connections to the municipal separate stormwater system, whether or not such connections result in discharges into that system.

Illicit discharge. Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under §14-507(2).

Improved sinkhole. A natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

Inspector. A person that has successfully completed and has a valid certification from the "Fundamentals of Erosion Prevention and Sediment Control Level I" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities.

1. Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state.
2. Update field SWPPPs.
3. Conduct preconstruction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed.
4. Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

Land disturbing activity. Any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

Maintenance. Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

Maintenance agreement. A document recorded in the land records that acts as a property deed restriction and which provides for long-term maintenance of stormwater management practices.

National Pollutant Discharge Elimination System Permit (NPDES Permit). A permit issued pursuant to 33 U.S.C. 1342.

Off-site facility. A structural BMP located outside the subject property boundary described in the permit application for land development activity.

On-site facility. A structural BMP located within the subject property boundary described in the permit application for land development activity.

Peak flow. Maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

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.

Runoff. That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

Sediment. Solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

Sedimentation. Soil particles suspended in stormwater that can settle in stream beds.

Soils report. A study of soils on a subject property, with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization, either by performing the investigation or by directly supervising employees conducting the investigation.

Stabilization. Providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

Stormwater. Stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.

Stormwater entity. The entity designated by the municipality to administer the stormwater management ordinance and other stormwater rules and regulations adopted by the municipality.

Stormwater management. Programs to maintain quality and quantity of stormwater runoff to predevelopment levels.

Stormwater management facilities. Drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated, or disposed of.

Stormwater management plan. Set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques intended to maintain or restore quality and quantity of stormwater runoff to predevelopment levels.

Stormwater Pollution Prevention Plan (SWPPP). A written plan that includes site map(s), identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land-disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPPs shall be prepared and updated in accordance with section 3 of the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

Stormwater runoff. Flow on the surface of the ground, resulting from precipitation.

Structural BMPs. Facilities that are constructed to provide control of stormwater runoff.

Surface water. Waters upon the surface of the earth in bounds created naturally or artificially, including, but not limited to, streams, other water courses, lakes, and reservoirs.

Waste site. An area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.

Watercourse. A permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.

Watershed. The land area that contributes runoff to a particular point along a waterway.

Waters or waters of the state. Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership, which do not combine or effect a junction with natural surface or underground waters.

Wetland(s). Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

Wet weather conveyances. Manmade or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality, and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Rules and Regulations of the State of Tennessee, Chapter 1 200-4-3-.04(3)).

(2) Abbreviations. The following is a list of abbreviations used within this ordinance. The appropriate designation shall refer to the latest edition or update published by that organization.

AASHTO: American Association of State Highway and Transportation Officials

ASTM: American Society for Testing and Materials

BMP: Best Management Practice

CFR: Code of Federal Regulation

FIRM: Flood Insurance Rate Map

MS4: Municipal Separate Storm Sewer System

NPDES: National Pollutant Discharge Elimination System

NRCS: National Resources Conservation Service

PUD: Planned Unit Development

SCS: Soil Conservation Service

SWPPP: Stormwater Pollution Prevention Plan

TDEC: Tennessee Department of Environment and Conservation

TDOT: Tennessee Department of Transportation

USC: United States Code

USGS: United States Geological Survey. (as added by Ord. #2016-2-1, March 2016 *Ch1_09-08-20*)

18-503. Land disturbance permit. (1) Applicability. The provisions of this section shall apply to all new developments on each lot, site, or common development which has not received final plat approval, final site plan approval, or a building permit prior to the effective date of this ordinance. No person shall undertake the following activities without first obtaining a Land Disturbance Permit (LOP) from the Building Official.

(a) Stripping or land disturbance activities of an area greater than one-half (1/2) acre.

(b) Excavation or fill on a property in a way that impacts stormwater flow (direction, volume, rate, velocity) or storage.

(2) Exemptions. (a) The following land disturbance activities are exempt from the requirements of obtaining a land disturbance permit:

(i) Minor land-disturbing activities such as home gardens and individual home landscaping, home repairs, home additions or modifications, home maintenance work, and other related activities that result in minor soil erosion.

(ii) Individual service and sewer connections for single- or two-family residences.

(iii) Agricultural practices involving the establishment, cultivation, or harvesting of products in the field or orchard, preparing and planting of pastureland, farm ponds, dairy operations, livestock and poultry management practices, and the construction of farm buildings.

(iv) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture.

(v) Construction, installation, or maintenance of electrical, telephone, and cable television lines and poles.

(vi) Installation, maintenance, and repair of any underground public utility lines when such activity occurs on an existing hard surface road, street, or sidewalk which is hard-surfaced and such street, curb, gutter, or sidewalk construction has been approved.

(vii) Construction, repair, or rebuilding of tracks or other related facilities of a railroad company.

(viii) Land disturbance activities that do not disturb more than one-half (1/2) acre of land.

(ix) This exception may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners. This exemption does not apply to any

discharge of sediment or other form of water pollution that may leave a small site.

(x) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) These activities may be undertaken without a land disturbance permit. However, the persons conducting these excluded activities shall remain responsible for conducting these activities in accordance with provisions of this ordinance and other applicable regulations, including responsibility for controlling sedimentation and runoff.

(3) Application. (a) No land-disturbing activity, whether temporary or permanent, shall be conducted within the municipality unless a Land Disturbance Permit (LOP) has been issued by the building official. Such permits shall be available for inspection by Livingston personnel on the job site at all times during which land disturbance activities are in progress.

(b) Each application for an LOP shall include the following:

(i) Name of applicant.

(ii) Business or residence address of applicant.

(iii) Name, address, and telephone number of the owner of the property of record.

(iv) Address and legal description of subject property, including the tax reference number and parcel number of the subject property.

(v) Name, address, and telephone number of the contractor and any subcontractor(s) who shall perform the land-disturbing activity and who shall implement the stormwater management plan.

(vi) A statement indicating the nature, extent, and purpose of the land-disturbing activity, including the size of the area for which the permit shall be applicable and a schedule for the start and completion dates of the land-disturbing activity.

(vii) Where the property includes a sinkhole or is within a Sinkhole Regulation Area (SRA), the applicant shall obtain from the Tennessee Department of Environment and Conservation the appropriate permits.

(viii) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose Livingston from imposing additional development requirements and conditions commensurate with this article on the development of property covered by those permits.

(ix) A sediment and erosion control plan containing the following:

- (A) Perimeter controls.
- (B) Slope protection.
- (C) Sediment traps and basins.
- (D) Drainage way and stream protection.
- (E) Temporary stabilization.
- (F) Permanent stabilization.

(x) A grading plan containing the following:

(A) Existing and proposed site contours of an interval no greater than five feet (5').

(B) Existing and proposed buildings on the property (including floor elevations).

(C) Existing and proposed drainage structures on and in the immediate vicinity of the property. Must include size, type, slope, and invert elevations of the structures.

(D) Submit drainage and runoff calculations (including a drainage basin worksheet) and temporary sediment/detention pond design as required by Livingston. Calculations should be for pipes and ditches as well as areas where the run off sheet flows

(E) Existing and proposed paving on the property (including parking and roadway improvements).

(xi) An NPDES permit tracking number.

(xii) Land Disturbance Permit Bond - Prior to the issuance of a permit for any land disturbance activity affecting more than five (5) acres, the applicant shall be required to provide a land disturbance bond to the Municipality of Livingston to guarantee completion of all land and grade stabilization measures and improvements as shown by the approved grading plan. For smaller areas, when potentially hazardous soil or drainage conditions exist due to types of soils, steep grades, floodplain development, or nearby lakes, streams, or large drainage ditches, the applicant may be required, at the discretion of the building official, to provide a land disturbance permit bond to guarantee completion of all land and grade stabilization measures and improvements as shown by the approved plan. The building official shall establish the amounts and time period of the security, based on the estimated cost and time for completing the plan. The land disturbance permit bond shall be in the form of cash, a certified check, an irrevocable letter of credit, or a surety bond rated A- or better. All irrevocable letters of credit submitted to Livingston must either be payable at a local bank within a fifty (50) mile radius of the corporate limits of Livingston or specifically state

that the letter of credit can be drawn upon by certified mail. Such land disturbance permit bond shall be satisfactory to Livingston's attorney as to form, sufficiency of surety, and manner of execution.

Within thirty (30) days of the building official's determination that all provisions of the approved plan have been completed or upon receipt of an acceptable site performance bond for required site and grading improvements or a subdivision performance bond for required subdivision improvements, such land disturbance permit bond shall be refunded or terminated.

(4) Permit duration. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one (1) year.

(5) Inspection of construction. (a) The applicant must notify the municipality of Livingston two (2) working days in advance of the commencement of construction.

(b) Erosion control measures must be in place and inspected by the Livingston Building and Zoning Department prior to grading.

(c) Routine inspections of erosion control devices shall be performed in accordance with the SWPPP to ensure effectiveness throughout the project duration. (as added by Ord. #2016-2-1, March 2016 *Ch1_09-08-20*)

18-504. Stormwater system design. (1) General. (a) This chapter outlines the minimum standards for stormwater design. The building official reserves the right to require additional calculations or information.

(b) A "major" drainage system carries run off from a 100-year storm event and consists of one or more minor drainage systems. Major drainage systems shall be designed such that no building will be flooded during a 100-year frequency storm if the minor drainage system experiences total failure.

(c) A "minor" drainage system is used for collecting, transporting, and disposing of snow melt, miscellaneous minor flows, and storm runoff up to the capacity of the system. The capacity should be equal to the maximum rate of run off to be expected from the initial design storm of 10-year frequency.

(d) Utility conflicts - See utility department manuals.

(e) All easement requirements shall be per the Livingston Subdivision Regulations.

(f) Reference Livingston Subdivision Regulations for additional Drainage requirements.

(g) The developer shall study the effect of each project on existing downstream drainage facilities outside the area of the project. Where it is anticipated that the additional runoff incident to the

development of the project will overload an existing downstream facility, the building official may withhold approval of the project until provisions have been made for adequate improvement of such drainage facilities. No project shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

(h) Stormwater systems should be designed to:

(i) Account for future development in the watershed or affected portions thereof, as permitted by the applicable zoning regulations.

(ii) Follow existing flow paths.

(iii) Convey stormwater to a stream, channel, natural drainage facility, or other existing facility of sufficient capacity to receive the stormwater runoff.

(iv) Exit the site at an easement or right-of-way location.

(i) In residential subdivision developments, where the average lot size is less than twenty-thousand (20,000) square feet, lots should generally be graded in such a manner that surface runoff does not cross more than three (3) lots or have peak discharges greater than four (4) cfs before it is collected in an open or closed stormwater system. All construction requirements shall be per the Livingston Subdivision Ordinance.

(j) The developer will ensure that all artesian groundwaters of a permanent or temporary nature will be conveyed through the stormwater system.

(k) Regardless of the location of property lines, intercept will be allowed at the point of artesian surfacing. The intent of this paragraph is to prevent flooding by overland flow. The developer is obligated to perform this work upon evidence of artesian water for a period of one (1) year following acceptance of all roads and utilities.

(2) Hydrology. (a) The rational method is the preferred method for drainage areas less than or equal to twenty (20) acres.

(b) Drainage areas greater than twenty (20) acres shall use the Soil Conservation Service (SCS) unit hydrograph procedure or other approved calculations.

(c) Intensity-duration-frequency curves for the Livingston area shall be used. Copies of these curves are available from the TDOT Design Division Drainage Manual.

(d) Drainage calculations shall be provided for all designs. All areas for calculation shall be determined from field run topography or current USGS quadrangle sheets.

(3) Open channel design. (a) Where open channels are utilized, they shall be designed for the 10-year design storm. If the 10-year design flow for an open channel system is greater than one hundred (100) cfs, the

channel shall be capable of passing the 100-year design flow within the drainage easement.

(b) Trapezoidal or parabolic ditch cross-sections are preferred. Triangular ditch cross-sections should be avoided.

(c) Use of riprap must be approved by the Town of Livingston Engineer.

(d) Low-flow concrete sections are required where flow is greater than one hundred (100) cfs, unless waived by the building official.

(e) Ditches running parallel and adjacent to a curbed street are not allowed.

(f) Manning's equation is recommended for evaluating uniform flow conditions in open channels.

(g) Stabilization of ditches - all open ditches shall be stabilized in accordance with the following requirements:

Size of Nearest Culvert (Upstream)	Seeding Requirement	Sod or Permanent Matting Requirement	Concrete Swale
Any size pipe	-----	-----	Grades less than 0.60% slope
15"	Grades 0.60%-3.00%	Grades 3.00-12.00%	Grades exceeding 12.00%
18" to 24"	Grades 0.60%-1.50%	Grades 1.50%-7.00%	Grades exceeding 7.00%
30" to 36"	Grades 0.60%-1.50%	Grades 1.00%-4.00%	Grades exceeding 4.00%
42" to 72"	-----	Grades 2.50 or less	Grades exceeding 2.50%

(4) Gutter and inlet design. (a) Inlets shall be located or spaced in such a manner that the design curb flow does not exceed eight feet (8') of spread.

(b) Underground stormwater facilities shall have accesses a minimum of two hundred feet (200') apart for pipe less than or equal to twenty-four inches (24") diameter, and three hundred feet (300') apart for pipe between thirty inches (30") inches and forty-two inches (42") in diameter.

(c) No flow shall be allowed to cross intersecting streets unless approved by the building official.

(d) Combination inlets shall always be used under sump conditions and at the end of cul-de-sacs.

(5) Culvert design. (a) Culverts shall be fifteen inches (15") diameter minimum and have a one-half percent (0.5%) slope minimum.

(b) RCP is required under all roadways.

(c) Arterial or collector roadway cross-drains shall be designed to pass the 50-year design storm. The 100-year design storm shall also be checked.

(d) Local roadway culverts shall be designed to pass the 10-year design storm. If the 10-year design flow exceeds one hundred (100) cfs, the local roadway cross-drains shall be designed to pass the 100-year design storm.

(e) A minimum velocity of 2.5 fps, when a culvert is flowing full, is required to ensure a self-cleaning condition during partial depth flow.

(f) A minimum of one (1') foot of cover shall be provided over all culverts.

(g) The maximum velocity shall be consistent with channel stability requirements at the culvert outlet.

(6) Bridges. (a) The peak discharge design return period for spans greater than twenty feet (20') shall be designed for the 100-year storm event.

(b) To allow debris to pass without causing damage, the recommended minimum clearance between the design flood stage and the low member of the bridge shall be one foot (1'), unless boat traffic is anticipated.

(7) Detention/retention design. (a) These guidelines will outline the way stormwater detention is to be calculated. Stormwater detention is necessary to control peak flow rates and is required for most developments.

(b) Major points of stormwater detention.

(i) Stormwater detention is required for any new development or redevelopment containing ten thousand (10,000) sf or more of impervious area.

(ii) Stormwater detention is defined as limiting the peak discharge rate for the post-developed conditions to be no greater than the peak discharge rate for the predeveloped conditions. This must be accomplished using the 2-year, 5-year, and 10-year storms.

(iii) Detention facilities should be designed with an emergency spillway capable of passing the 100-year event.

(iv) A dry detention basin must have a minimum of two percent (2%) slope in the bottom of the basin in order to drain properly. The side slopes should generally be 3:1 (H:V) or flatter, unless transversable access has been designed.

(v) All hydrologic and hydraulic computations for stormwater detention facilities must be prepared and stamped by a registered engineer (licensed in the State of Tennessee) and proficient in this field. Plans must show sufficient information to enable the builder to construct the facility as required.

(vi) Underground detention is the use of large underground structures to provide necessary volumes for attenuating stormwater peak flows. All underground detention must be within a structure; gravel or rock beds are not approved for detention. The following minimum requirements must be met before an underground storage facility will be considered for approval.

(A) The underground detention structure must provide adequate access for inspection from the surface. Public safety must be considered.

(B) The underground detention structure must be constructed of durable materials with a typical 100-year lifetime. Detention storage volume shall not include the porous space within a stone or gravel bed.

(C) The underground detention structure shall be designed to have positive drainage into the receiving channel or stormwater sewer, assuming there is a 10-year flood in the receiving facility.

(D) The underground detention structure shall not receive surface runoff directly from parking lots.

(E) Structural measures shall be in place to prevent blockages. Trash racks for periodic removal shall collect floatable waste materials. The underground detention structure shall have a means of being dewatered for inspection and maintenance purposes.

(F) A detailed maintenance and inspection plan must be submitted and approved (including inspection schedules and guidelines). Evidence of responsibility and financial budgeting must be presented.

(8) Erosion and sediment control. (a) The erosion and sediment control plan must include appropriate construction specifications for all control measures. These specifications must be developed by the design engineer as required for site-specific conditions. Typical specifications may be obtained from the most recent edition of the Tennessee Erosion and Sediment Control Handbook (Tennessee Department of Environment and Conservation).

(b) Properties adjacent to a land disturbance site shall be protected from sediment deposition. Vegetated buffer strips shall be at least twenty feet (20') wide.

(c) Sediment traps and ponds may be used to detain sediment-laden stormwater runoff from drainage areas. These shall be designed in accordance with the most recent edition of the Tennessee Erosion and Sediment Control Handbook.

(d) Temporary check dams shall be constructed across open channels.

(e) The designer must consider and provide a design to dissipate energy and eliminate scour on the downstream side of all outlet structures. See subsection (9) of this section for approved outlet protection alternatives.

(f) Ninety percent (90%) of all pervious areas on a site shall have a dense ground cover prior to release of any bond. In drainageways, one hundred percent (100%) of dense ground cover must be established.

(9) Outlet protection. (a) Outfalls must be designed to discharge the runoff without deterioration of the downstream drainage facilities.

(b) Fencing shall be required for detention areas where either:

(i) Rapid stage changes occur.

(ii) Water depths exceed two and one half feet (2.5') for more than twenty-four (24) hours.

(iii) Interior flow velocity is more than five (5) fps.

(iv) Interior side slopes are greater than 1.5:1.

(v) In some cases, it may be advisable to fence the watercourse or ditch rather than the detention area.

(c) Grates or covers are required on top of all detention pond outlet structures.

(d) Energy dissipater blocks and turf reinforced matting are preferred for outlet protection. Use of riprap requires prior approval from the building official.

(10) Sinkhole policy. (a) General. (i) The sinkhole policy establishes Sinkhole Regulated Areas (SRA) and is intended to regulate the use of lands considered vital to the natural drainage system of the municipality. The regulations set forth in this section shall apply to those areas where sinkholes are known to exist within the Livingston area and similar areas discovered during land development and/or construction.

(ii) The intent of this section is to regulate karst terrain development in order to protect the public health, safety, and welfare by guiding the development and use of environmentally constrained lands in a manner that promotes safe and appropriate development and construction, stormwater management, groundwater quality, and reduction of flooding.

(iii) The intent of SRAs is to add restrictions and limitations designed to promote public health, safety, and the general welfare. Specifically, the prevention of sinkholes and natural drainage ways malfunction will help mitigate potential health and safety hazards, property loss and/or damage, disruption of commerce and governmental services, extraordinary public

expenditures for flood protection and relief, and impairment of the tax base.

(iv) The Legislature of the State of Tennessee has, in §§ 13-7-201 through 13-7-210 of the Tennessee Code Annotated, delegated the responsibility to local governmental units to adopt regulations designed to promote the health, safety, and general welfare of its citizenry.

(b) Sinkhole and other geological information. (i) Karst topography is common in Overton County where soluble limestone forms the landscape. Sinkholes, collapsed sinks, springs, sinking creeks, and caves characterize this type of topography. All of these are numerous in and around Livingston.

(ii) The geological features of karst terrain play an important role in stormwater management, groundwater quality, and flooding for a significant portion of the Livingston area.

(iii) Sinkhole flooding is caused by large depressions in the ground, having little or no outlets, which simply store rainwater.

(iv) The protection and maintenance of the numerous sinkholes and associated karst terrain features in the area is essential for drainage, water quality, and a reduction of flooding. Specific requirements for land-disturbing activities and construction in and around sinkhole areas are necessary to reduce the potential for significant property damage and/or personal injury resulting from sinkhole flooding and collapse.

(c) Objectives. (i) Maintain property values and avoid property damage and/or safety concerns due to development in sinkhole areas.

(ii) Incorporate geotechnical practices to promote the stability and environmental quality of sinkhole areas.

(iii) Encourage the protection and retention of natural topographic drainage features, including sinkhole areas.

(iv) Protect groundwater by minimizing pollution caused by development activity in sinkhole areas.

(v) Protect downstream areas from flooding caused by development activity in sinkhole areas.

(vi) Promote building stability by limiting the location of structures in sinkhole areas by incorporating geotechnical techniques into development and construction activities.

(d) Definitions.

CAVE ENTRANCE DRIP LINE. The beginning of a cave defined as a line on the ground at a cave entrance formed by drips from the rock above at the outermost point of the entrance's overhang.

EPHEMERAL LAKE. A body of standing water occurring in a sinkhole of a karst region that is usually visible after sufficient precipitation has occurred. They may form from slow permeability of soils, rises in the water table, or the development of a natural liner of slow permeable clays or soils.

GROUNDWATER. The supply of freshwater under the ground surface in an aquifer or geologic formation that forms the natural reservoir for springs and wells.

GROUNDWATER DRAINAGE BASIN. An area of the landscape that drains through the subsurface to a spring or other component of a karst drainage system, such as a cave stream. This term is analogous to "catchment" for surface drainage systems, in which case it denotes an area of the landscape that drains to a river confluence or other point in a surface drainage system. In contrast to surface catchments, karst groundwater drainage basins generally cannot be determined by topographic maps, and thus must be delineated by other methods, such as dye tracing.

KARST. A terrain generally underlain by limestone or dolomite, in which the topography is chiefly formed by the dissolving of rock and which may be characterized by sinkholes, sinking streams, subterranean drainage, and caves.

KARST GEOLOGIC FEATURES. Geologic features that develop on karst terrain. Examples of karst geologic features are sinkholes, caves, sinking streams, and karst springs.

KARST SPRING. The discharge points for underground streams.

SINKHOLE. Any closed depression in soil or bedrock formed by the erosion and transport of earth material from below the land surface, which is circumscribed by a closed topographic contour and drains to the subsurface. The sinkhole boundary is described as an area bounded by a projected line demarcating a change in slope from toward the center of the sinkhole to away from the sinkhole, which represents a local drainage divide. Precipitation falling on the surface sloping toward the sinkhole is likely to run into the sinkhole throat or to infiltrate the soil and move through subsoil conduits to the throat. This includes areas which contribute surface water to a sinkhole via streams.

SINKHOLE COLLAPSE FEATURE. Sometimes called "cover collapse sinkhole," a relatively steep-side, "throat-like" sinkhole typically within a larger sinkhole and typically with rock or soil walls, formed by the erosion and transport of earth materials into the subsurface in a manner such that the expression of this transport has propagated to the surface.

SINKHOLE REGULATION AREA BUFFER. A non-buildable perimeter edge area around a sinkhole collapse feature, the extent of which is established in the field by a licensed geotechnical engineer. The purpose of the buffer is to minimize the exposure of impervious surfaces, such as structures, to sinkhole subsidence.

SINKHOLE TERRAIN SURVEY. A survey of property containing sinkhole areas as depicted on the Livingston Zoning Map. This survey depicting site-specific karst geologic features is required for submission prior to development review.

SINKHOLE WATERSHED. An area bounded by a projected line demarcating a change in slope from toward the center of the sinkhole to away from the sinkhole, which represents a local drainage divide. Precipitation falling on the surface sloping toward the sinkhole is likely to run into the sinkhole throat, or infiltrate the soil and move through subsoil conduits to the throat. This includes areas which contribute surface water to a sinkhole via streams.

SINKING STREAM SINKPOINT. The location where a surface stream disappears into the subsurface karst aquifer, either at a discrete point such as a cave entrance or gradually along the reach of a stream channel.

SURFACE WATER BODY. Any lake, stream, sinkhole, or other water area, whether natural or manmade, but not including any jurisdictional wetland.

(e) Exemptions. This section shall not apply to the following development construction activities.

(i) Addition of accessory structures or alteration of the ground surface (cutting, filling, grading, etc.) associated with landscaping, installation of walks or driveways, or similar activities on sites developed with a principal structure built prior to the effective date of these regulations.

(ii) Clearing and other activities required for surveying and preliminary site investigation, conducted after coordination with and permission from the building and codes department.

(iii) Maintenance of roads and utility lines.

(iv) Expansion of an existing residential structure by less than fifty percent (50%) or of a nonresidential structure by less than ten percent (10%).

(v) Construction on existing lots shown on plats or plans approved prior to the effective date of these regulations.

(f) Sinkhole terrain survey. Proposed development activity on land indicated as a sinkhole regulation area on the zoning maps will require that the applicant conduct and submit a sinkhole terrain survey

of the property, which shall identify site specific karst geologic features. This survey shall be conducted and certified by a geologist or geotechnical engineer licensed in the State of Tennessee, with the qualifications to review and analyze karst geological features. This shall include at least one field site inspection. The date of the site survey and the person conducting the survey shall be noted on the submitted survey.

(i) The following is a list of karst geologic features to be identified as part of the sinkhole terrain survey and identified on all submitted subsequent development plats or site plans. An asterisk (*) indicates those features requiring a sinkhole feature buffer as required in § 18-504(10)(g).

- (A) Sinkhole*
- (B) Sinkhole collapse feature*
- (C) Cave entrance drip line*
- (D) Sinking stream sink point*
- (E) Springs
- (F) Ephemeral lakes after rainfall
- (G) Subsurface cave passages as determined by preexisting cave maps
- (H) Surface drainage flow into the ground

(ii) The following is a list of requirements specific to certain karst geologic features that shall be indicated on all required plans when any of the features listed in § 18-504(10)(f)(i) have been identified.

- (A) Location and limits of the area of the sinkhole depression, including the topographic boundary of the entire closed depression at two foot (2') contour intervals.
- (B) Sinkhole low point location and elevation.
- (C) Calculation of predevelopment and post-development surface drainage volumes directed toward the low point of the sinkhole.

(g) Sinkhole regulation area buffer. Proposed development sites that depict sinkholes or sinkhole collapse features on the sinkhole terrain survey shall require that the applicant's geotechnical engineer licensed in the State of Tennessee determine and certify the appropriate sinkhole retention area buffer, based on their analysis of the particular collapse feature.

(i) At a minimum, this analysis shall take into account surrounding evidence of instability, such as surrounding soil subsidence.

(ii) The sinkhole retention area buffer shall be measured starting from the last closed contour line of the sinkhole, as determined by the applicant's geotechnical engineer.

(iii) No activities are permitted within the sinkhole retention area buffer except for regular maintenance and landscaping.

(iv) Sinkhole retention area buffers located downslope of development activities shall be protected with soil erosion and sediment controls approved by the building and zoning department.

(v) Sinkhole retention area buffers shall include ground cover and tree plantings as approved by the building and zoning Department.

(vi) Volume of surface water runoff into a sinkhole low point shall not be increased from predevelopment conditions without approval from the building official.

(vii) If volume of surface water runoff is increased to a sinkhole, the sinkhole volume will be adjusted to account for the additional stormwater volume. In addition, an underground injection control permit will be required from TDEC.

(h) Discovery of sinkhole feature during development. The discovery of previously unknown karst geologic features during development activity shall require the following.

(i) All work other than erosion and sediment control installation within the area shall be immediately discontinued.

(ii) Developer shall report the discovery of such features to the building official.

(iii) Developer's geotechnical engineer licensed in the State of Tennessee shall report and consult on the matter with the building official.

(iv) Continuation of site disturbance and construction cannot proceed without express authorization from the building official and the Town of Livingston.

(v) The building official may require revisions to all related plats and other plans based on the location and scope of the newly discovered sinkhole feature. Revisions shall comply with § 18-504(10)(g).

(i) Permitted principal uses and structures

(i) Within residential districts, uses such as lawns, gardens, parking areas, and open space or landscaped areas.

(ii) Within commercial and industrial districts, uses such as loading areas, parking areas, and open space or landscaped areas.

(iii) Private and public recreation uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife

and nature preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

(iv) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(v) Any use which the building official determines to be compatible with the intent of this district.

(j) Prohibited uses and structures. Any use or structure not specifically permitted or permitted on appeal.

(k) Uses permitted by special review. Uses and structures permitted in the underlying zone may be permitted in a sinkhole retention area as shown on the Town of Livingston Zoning Map only upon application to the planning commission and subject to the following conditions.

(i) The applicant shall submit to the Livingston Building and Zoning Department evidence that the proposed use can be protected from inundation by retaining wall, levee, or other means without undue interference, either with the flow of any water course or with any necessary retention basin.

(ii) The building and zoning department shall review the evidence submitted by the applicant and make a written evaluation and recommendation of same to the Livingston Planning Commission.

(iii) Upon consideration of said evidence by the planning commission, the applicant may be granted a permit with protective measures stipulated as being conditional to approval of the permit.

(iv) No building permit or use and occupancy permits shall be issued until and unless the above conditions have been met to the satisfaction of the building official.

(v) All subdivision proposals and other new development plans are required to record the boundaries of the sinkhole regulation area buffer. This boundary may differ from the established sinkhole regulation area buffer only on approval of the building and zoning department, which shall be noted on said plat or plans.

(l) Standards for review. In all areas designated as a sinkhole retention area where a use is proposed that is not specifically permitted, review by the planning commission will include a site plan showing all of the following items.

(i) Scale not less than one inch equals one hundred feet (1" = 100').

(ii) Two foot (2') contour intervals.

(iii) Location and lowest elevation of sinkholes.

- (iv) Location of natural and manmade drainage ways.
- (v) Zoning of adjacent properties.
- (vi) Any other features deemed appropriate by the building official in conjunction with the Town of Livingston Public Works Director. (as added by Ord. #2016-2-1, March 2016 *Ch1_09-08-20*)

18-505. Post-construction. (1) General. (a) The following requirements apply to existing and proposed sites.

(i) Sedimentation and erosion control shall be maintained on-site until the site has been established and approved by the building official. The building official shall have the authority to require the owner(s) to repair on-site erosion and manage siltation before it leaves the property.

(ii) In areas where a floodplain and floodway have been identified on the most current FEMA maps, the buffer shall be inclusive of all areas within the floodway. Additional buffer width may be required by the building official.

(iii) In areas where a floodplain and floodway have not been identified on the most current FEMA maps, and if the waterway on the United States Geological Quadrangle map is a "blue line" or intermittent "blue line" stream, the buffer shall be at least twenty-five feet (25') feet perpendicular from each side of the stream bank.

(2) Post-construction maintenance. (a) Private ownership - in all cases except where the stormwater facilities are under municipal ownership, responsibility for maintenance shall lie with the owner of the facilities. The responsibilities of the owner for post-construction maintenance of the stormwater facilities shall be submitted with the plans for determination of their adequacy. Approval of these plans shall be conditioned upon a determination by the building official that such responsibilities are adequately addressed. These terms shall be in writing, subject to recording, and in addition to any other terms deemed necessary to the enforcement of this ordinance, contain a provision permitting inspection at any reasonable time by the municipality. The owner shall also execute a stormwater facilities agreement with the Town of Livingston, a copy of which shall be kept on file in the office of the building official.

(ii) Municipal ownership - where the municipality has accepted an offer of dedication of the permanent stormwater management facilities, Livingston shall be responsible for maintenance.

(3) As-built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer

licensed to practice in Tennessee. Detention stormwater calculations based on as-built detention pond(s) shall be provided to certify that constructed basin(s) meet the designed intent. A final inspection by Livingston is required before any performance security or performance bond will be released. The municipality shall have the discretion to adopt provisions for a partial pro rata release of the performance security or performance bond on the completion of various stages of development.

(4) Landscaping and stabilization. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be re-vegetated according to a schedule approved by the building official. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased and will be in accordance with the most recent edition of the Tennessee Erosion and Sediment Control Handbook. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased. Slopes greater than thirty-five percent (35%) shall be stabilized within seven (7) days. Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay-sized particles) or crusher runs will not be considered a non-eroding surface. The following criteria shall apply to re-vegetation efforts.

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area re-vegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(b) In addition to the above requirements, a landscaping plan must be submitted with the final design, describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site

will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(5) Inspection of stormwater management facilities. The Town of Livingston municipality may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including, but not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities.

(6) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this article, the municipality, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the municipality shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the municipality may take necessary corrective action. The cost of any action by Livingston under this section shall be charged to the responsible party. (as added by Ord. #2016-2-1, March 2016 *Ch1_09-08-20*)

18-506. Illicit discharges. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system. (as added by Ord. #2016-2-1, March 2016 *Ch1_09-08-20*)

18-506. Prohibition of illicit discharges. (a) No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with § 18-505(5) shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to,

sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, and improper disposal of auto and household toxics. The commencement, conduct, or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited, except as follows.

(i) Uncontaminated discharges from the following sources.

(A) Water line flushing or other potable water sources.

(B) Landscape irrigation or lawn watering with potable water.

(C) Diverted stream flows.

(D) Rising groundwater.

(E) Groundwater infiltration to storm drains.

(F) Pumped groundwater.

(G) Foundation or footing drains.

(H) Crawl space pumps.

(i) Air conditioning condensation.

(J) Springs.

(K) Non-commercial washing of vehicles.

(L) Natural riparian habitat or wetland flows.

(M) Swimming pools (if dechlorinated - typically less than one (1) PPM chlorine).

(N) Firefighting activities.

(O) Any other uncontaminated water source.

(ii) Discharges specified in writing by the municipality as being necessary to protect public health and safety.

(iii) Dye testing is an allowable discharge if the municipality has so specified in writing.

(2) Prohibition of illegal connections. (a) The construction, use, maintenance, or continued existence of illicit connections to the municipal separate storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) Accidental spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of

hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the municipality in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. (as added by Ord. #2016-2-1, March 2016 *Ch1_09-08-20*)

18-507. Enforcement. The Town of Livingston may institute appropriate actions or proceedings by law or equity for the enforcement of this ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense, and nothing herein contained shall prevent the municipality from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief. Any of the following enforcement remedies and penalties shall be available to Livingston in response to violations of this ordinance. If the person, property, or facility has or is required to have an NPDES permit from the Tennessee Department of Environment and Conservation, the municipality shall alert the appropriate state authorities of the violation.

(1) Notice of violation. (a) Whenever the building official finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance, a permit, or order issued hereunder, the building official may serve upon such person a notice of the violation. The Livingston Building and Zoning Department Notice of Violation requires the owner/builder/bond insurer to comply with all issues that are stated on the notice of violation. If the listed violations are not corrected at the time of the reinspection, an additional inspection will be scheduled within five business days, at which time a stop work order may be issued. If a stop work order has been issued, the owner/builder has five (5) days to comply with the notice of violation issues before the municipality will take all action necessary to ensure compliance, including, but not limited to, forfeiting any relevant bond and/or enforcing penalties.

(b) A copy of the Notice of Violation form is available in the office of the Livingston Building and Zoning Department.

(2) Stop work order. (a) When the building official finds that any person has violated or continues to violate this ordinance, any permit, or order issued hereunder, the building official may issue a stop work order

to cease and desist all such work and direct those persons in noncompliance to:

- (i) Comply forthwith.
 - (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
- (b) A copy of the stop work order form is available in the office of the Livingston Building and Zoning Department. (as added by Ord. #2016-2-1, March 2016 *Ch1_09-08-20*)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY¹

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the municipality and its inhabitants under such franchise as the municipal 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. (1989 Code, § 13-301)

¹Municipal code reference
Electrical code: title 12.

CHAPTER 2

GAS¹

SECTION

- 19-201. Monthly charges.
- 19-202. Monthly bills.
- 19-203. Billing when meter is inoperative.
- 19-204. Delinquent bills.
- 19-205. Tampering with meters, reconnecting service, etc.
- 19-206. Changes in service charges.
- 19-207. Cash deposits for service.

19-201. Monthly charges. The following, except as hereinafter provided, shall be the schedule of monthly charges for natural gas and services furnished by the natural gas system of the Town of Livingston, Tennessee, to wit:

(1) **General gas rate.** Applicable to all customers whose monthly usage is less than seven thousand five hundred cubic feet (7,500 CCF).

First 300 CCF or less	\$4.05 (minimum bill)
All over 300 CCF	Actual cost per 100 CCF delivered to the city, plus fifty cents (\$0.50) per 100 cubic feet.

(2) **Industrial gas rate.** Applicable to all industrial customers whose monthly usage is seven thousand five hundred cubic feet (7,500 CCF) or more.

(3) **Rate.** Actual cost per one thousand cubic feet (1,000 MCF) of gas delivered to the city, plus two dollars and fifty cents (\$2.50) per MCF.

The above rates shall be adjusted monthly, up or down, as the price of gas fluctuates up or down.

No natural gas service shall be rendered free of charge to any person, firm, corporation or to the Town of Livingston. (1989 Code, § 13-501, as amended by Ord. #2006-__, Dec. 2006)

19-202. Monthly bills. All gas meters shall be read monthly and bills rendered monthly based on such reading. All bills shall be due and payable from and after the date on which such bills are received. (1989 Code, § 13-502)

19-203. Billing when meter is inoperative. In the event any meter shall be found to be inoperative at the end of any billing period or to be faulty

¹See title 12 in this code for the plumbing and gas codes.

See § 12-403, "Gas requirements," for installation criteria.

or inaccurate for any reason, the meter will be replaced or repaired as soon as possible and the bill for natural gas used during the current period shall be the average of the last three (3) monthly bills. (1989 Code, § 13-503)

19-204. Delinquent bills. A penalty of ten percent (10%) shall be assessed after the 20th of the month. Service shall be subject to termination after the 3rd of the following month, unless satisfactory arrangements have been made for delayed payment. (Ord. #2006-___, Dec. 2006)

19-205. Tampering with meters, reconnecting service, etc. It shall be unlawful for any person or persons to tamper with or change any gas meter, or to make any connection to the system without permission from the town, or to reconnect service, when it shall have been disconnected for non-payment of a bill for service, until such bill shall have been paid in full, including the reconnection fee. (1989 Code, § 13-505)

19-206. Changes in service charges. Since the issuance and sale of Natural Gas System Revenue Bonds dated July 1, 1960, is predicated upon a covenant by the town to maintain rates for the service provided by the natural gas system as shall produce income and revenues sufficient to pay the reasonable cost of operation and maintenance of said system and to pay the principal of and interest on said bonds punctually and promptly as the same shall become due, and to maintain a reasonable reserve therefor, the rates in this chapter shall not be changed to the extent that the covenant above referred to would be impaired or adversely affected. (1989 Code, § 13-506)

19-207. Cash deposits for service. Each customer shall, before connecting with the system, obtain a permit therefor from the town and shall deposit ten dollars (\$10.00) as security for the prompt payment of all accounts of the subscriber with the system, which deposit shall be returned to the subscriber upon termination of the services if all charges due the town shall have been paid, but in the event that the subscriber shall become in arrears in such charges, then such deposit shall be used in whole or in part, in liquidation of same, and the deposit by the subscriber shall be his consent to such use in such an event. All such deposits shall be retained in a separate account to be accounted for at the termination of service, except in the case of a subscriber becoming in arrears in charges, in which event the deposit may be withdrawn from the special account and applied to the payment of the delinquent charge. (1989 Code, § 13-507)

TITLE 20**MISCELLANEOUS****CHAPTER****1. TREE BOARD.****CHAPTER 1****TREE BOARD****SECTION**

20-101. Purpose.

20-102. Definitions.

20-103. Duties and responsibilities.

20-104. Tree planting.

20-105. Tree care.

20-106. Tree removal.

20-107. Arborists and tree surgeons: insurance required.

20-108. Protection from construction and land use changes.

20-109. Appeal and penalties.

20-101. Purpose. The purpose of this chapter is to provide a mechanism for the management of trees and woody vegetation the town. The Town of Livingston hereby establishes the Livingston Tree Board, pursuant to the requirements of the "Tree City USA" program. (Ord. #2005-6-1, __, 2005)

20-102. Definitions. (1) "Crownsread." The distance from the ends of the branches on one side of the tree, through the trunk, to the ends of the branches on the other side.

(2) "Line clearance." Removal of limbs and branches growing with a set distance of electrical distribution lines.

(3) "Private tree." Tree growing in an area owned by a private individual, business or commercial establishment, company, or industry, private institution, or other area not owned by government entities.

(4) "Pruning." Selective removal and thinning of the upper portions of the tree using natural target techniques, taking into account the shape and natural structure of the tree.

(5) "Public tree." Tree growing in an area owned by the community, including parks, public buildings, schools, hospitals, and other areas to which the public has free access.

(6) "Public utility." That section of local government in charge of electrical distribution for the community and having responsibility for keeping distribution lines free of hazards, including trees.

(7) "Shrub." Woody plant with a multiple stem capable of growing to a height of up to fifteen feet (15').

(8) "Street tree." Tree growing within a public right-of-way along a street, in a median, or in a similar area in which the right-of-way borders areas owned by private individuals.

(9) "Topping." Arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.

(10) "Tree." Woody plant with a single trunk or multiple trunks capable of growing to a height of fifteen feet (15') or more. (Ord. #2005-6-1, __, 2005)

20-103. Duties and responsibilities.¹ The duties of the tree board shall include, but not be limited, to the following:

- (1) Prepare a tree plan for the community.
- (2) Coordinate tree-related activities.
- (3) Conduct an Arbor Day ceremony;
- (4) Provide tree information to the community;
- (5) Maintain a recommended tree list for the community;
- (6) Recognize groups and individuals completing tree projects;
- (7) Coordinate publicity concerning trees and tree programs;
- (8) Recognize groups and individuals completing tree projects;
- (9) Coordinate donations of trees or money to purchase trees;
- (10) Adopt rules and regulations pertaining to the tree program;
- (11) Hear citizens' concerns regarding tree problems during scheduled meetings;
- (12) Perform other tree-related duties and opportunities that arise from time to time. (Ord. #2005-6-1, __, 2005)

20-104. Tree planting. Tree planting shall be undertaken by the city on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be determined by the tree board.

Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The tree board will provide information about species, planting techniques, and placement guidelines when requested by residents.

(1) Grade. Trees to be planted shall be free of insects and diseases, mechanical injuries, and have reasonably straight trunks with a strong leader branch. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.

(2) Planting near existing objects. Only small trees are permitted to be planted within ten feet (10') of utility lines. In street plantings, no tree may

¹Refer to Appendix C of this code.

be planted closer than ten feet (10') to a fire hydrant, or utility pole or street light, fifteen feet (15') to a driveway/street intersection, or twenty feet (20') from a street/street intersection. When planting between sidewalks and six feet (6') between curb and sidewalk is the minimum distance required from small trees, eight feet (8') for medium trees, and ten feet (10') for larger trees.

(3) Planting techniques. Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least twelve inches (12") larger than the diameter of the root ball or root system. The depth of planting should be at the same level as the tree had grown previously. Backfill should be of the same material that was removed from the hole, with no additives except low nitrogen fertilizer which may be added if the tree board deems it necessary. Trees may be guyed in windy areas or other areas where support is determined necessary by the tree board. All guy wires shall be removed within eighteen (18) months.

(4) Landscaped strips. Landscaped strips shall be a minimum of five feet (5') in width and planted with acceptable indigenous landscaping material. In addition, the trees shall be planted no greater than eighteen to twenty-five feet (18'-25') apart and at the time of planting said trees shall be at least one and three-quarters inches (1 3/4") in diameter. (Ord. #2005-6-1, __, 2005)

20-105. Tree care. The city shall take responsibility for pruning, fertilizing, watering; and insect and disease control or other tree care activities. Maintenance will be performed to keep public trees reasonably healthy and minimize the risk of hazard trees could cause to the public. Tree care may be accomplished by city personnel or by vendors.

Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The tree board will provide information in a timely manner to residents about all aspects of tree care.

(1) Tree topping prohibited. The practice of tree topping is prohibited on all public trees and is strongly discouraged as a tree care practice for private trees. Proper pruning is the best practice for limb removal. The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts.

(2) Fertilization. Fertilization of trees will be accomplished when the tree board determines a tree is deficient in nutrients. Determination is made by leaf color or size, twig growth, soil test, or other diagnostic methods. Fertilizer will be applied at the appropriate time of year (December-March). Fertilizer shall be applied no closer than twelve inches (12") to tree trunks and should extend beyond trees' crown driplines.

(3) Mulching. Mulch shall be applied in a four to six foot (4'-6') ring around tree trunks at a depth of two to four inches (2"-4"). Either inorganic (rock) or organic (bark chips) mulch types are acceptable.

(4) Root care. Extensive root system damage to public trees is prohibited. Grade changes and trenching within the crown spread (ends of

branches) is prohibited without permission of the tree board. Owners of private trees are encouraged to consult the tree board before proceeding with these activities.

(5) Utility lines. Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Drop crotch pruning or pruning to laterals are the required methods. Where possible, the utility companies shall undertake a program of replacing large trees with small maturing ornamental trees of the kind recommended by the tree board. (Ord. #2005-6-1, __, 2005)

20-106. Tree removal. This section will apply to both public and private trees. Trees that are dead or dying and/or pose a safety or health risk to residents or to other trees shall be removed in a timely manner. The tree board will make the risk determination, and if appropriate, will cause the tree(s) to be removed.

Upon receipt of notice to remove, the owner may appeal the decision within fifteen (15) days (or next meeting) to the board of aldermen.

Stump removal to below ground level is considered part of the tree removal process. (Ord. #2005-6-1, __, 2005)

20-107. Arborists and tree surgeons: insurance required. All individuals and firms conducting tree care and removal activities for compensation shall be required to have liability insurance. A minimum of one hundred thousand dollars (\$100,000.00) of liability insurance is required. It is also recommended that such tree care companies be certified by either the International Society of Arboriculture (ISA) or the Tree Care Industry Association (TCIA). (Ord. #2005-6-1, __, 2005)

20-108. Protection for construction and land use changes.

(1) Tree preservation. As it pertains to commercial and residential development, the city maintains that it is in the best interest of all concerned to save as many existing trees as practical. Developers/builders will develop tree impact plans prior to removal of any tree from project sites. Said plans will be submitted to the tree board for approval.

(2) Impact plans. Impact plans will include general locations of trees to be removed and areas of trees that will be retained. Plans will also indicate the general layout of roads, utilities, parking areas for vehicles, storage areas for construction material, and other items that disturb or compact the soil in tree root zones. The plan shall also include proposed grading work and subsequent erosion control measure to prevent siltation over the roots of trees that will remain. The plan will also outline additional landscape trees that need to be planted to bring the finished project up to the desired vegetation level.

(3) Tree protection zone. All trees on publicly owned property near any excavation or construction activity shall have a protection zone around it equal

to the crown spread of the tree. No building material, dirt, other debris, or any vehicles shall be allowed inside the barrier. (Ord. #2005-6-1, __, 2005)

20-109. Appeal and penalties. (1) Appeals. Any person dissatisfied with the decisions, rules, regulations, and interpretations of the tree board shall have the right to appeal to the board of aldermen. Appeals shall be within thirty (30) days and shall be made in writing.

(2) Penalties. Any person violating this chapter shall be deemed guilty of a misdemeanor, and according to the laws of the State of Tennessee shall be fined a maximum of fifty dollars (\$50.00). Each subsequent day that any violation continues unabated shall constitute a separate offense. (Ord. #2005-6-1, __, 2005)

APPENDICES

- A. ETHICS PROVISIONS PROVIDED BY STATUTE.
- B. DELETED.
- C. TREE BOARD PLANTING LIST AND TREE CARE PLAN.

APPENDIX A

ETHICS PROVISIONS PROVIDED BY STATUTE.

Appendix A

1. Campaign finance.

All candidates for the chief administrative office (mayor), any candidates who spend more than \$500, and candidates for other offices that pay at least \$100 a month are required to file campaign financial disclosure reports. Civil penalties of \$25 per day are authorized for late filings. Penalties up to the greater of \$10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101–118).

Contributions to political campaigns for municipal candidates are limited to:

- a. \$1,000 from any person (including corporations and other organizations);
- b. \$5,000 from a multicandidate political campaign committee;
- c. \$20,000 from the candidate;
- d. \$20,000 from a political party; and
- e. \$75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of \$10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301–310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. Conflicts of Interest.

Municipal officers and employees are permitted to have an "indirect interest" in contracts with their municipality if the officers or employees publicly acknowledge their interest. An indirect interest is any interest that is not "direct," except it includes a direct interest if the officer is the only supplier of

goods or services in a municipality. A “direct interest” is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107–108, T.C.A. § 12-4-101–102).

3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 *et seq.* Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over \$10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from “knowingly” receiving any form of compensation for “consulting services” other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

“Consulting services” under T.C.A. § 2-10-122 means “services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official.” “Consulting services” also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. “Consulting services” does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

"Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct, official oppression, misuse of official information.

a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall

engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude” (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal “duty” to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that “there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county.” However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney’s duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101–102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

APPENDIX B

(as deleted by Ord. #2013-2-1, April 2013
Ch1_09-08-20)

APPENDIX C

TREE BOARD PLANTING LIST AND TREE CARE PLAN

Appendix C Tree Planting List (Other approved species may be planted also)

Small Trees -- 30' tall or less

Species	Flowers	Fall Leaf Color	Spread	Lifespan	Notes
Crapemyrtle	Summer	Red/Orange	15-25	50	Bush
Dogwood	Spring	Red	20-30	50-100	
Fringe Tree	W. Spring	Yellow	10-15	50	Bush
Hawthorn	Spring	NA	15-25	50	
Pawpaw	Spring	Yellow	15-20	50	Fruits
Redbud	P. Spring	Yellow	15-30	50	
Serviceberry	W.Spring	Red/Orange	15-25	50	
Smoketree	(A) W. Summer	Orange	15-25	50	
Sourwood	W. Summer	Red	30-35	50-100	
Sumac	NA	Red/Orange	10-15	50	
Sweetbay Magnolia	W. Summer	NA	15-25	50	
Weeping Magnolia	NA	Yellow	10-15	50	Chaparal Var.
Witch Hazel	Y. Winter	Red/Orange	12-18	50	Bush
Yellowwood	W. Summer	Yellow	40-50	50-100	

Medium Trees -- 30-70' tall

Species	Flowers	Fall Leaf Color	Spread	Lifespan	Notes
American Holly	W. Spring	NA	15-25	50-100	
Golden Raintree	Y. Summer	Yellow	20-30	50-100	
Green Ash	G. Spring	Yellow/Orange	40-50	50-100	

Honey Locust	Yellow	Yellow/Orange	40-50	50-100	Thornless
Kentucky Coffeetree	G. Spring	Dull yellow	60-70	100+	
Littleleaf Linden	Y. Summer	Yellow	35-50	50-100	
Red Maple	R. Winter	Red/Purple	25-35	50-100	
Sassafras	Y. Spring	Yellow/Orange	25-40	50-100	
Silverbell	W. Spring	Yellow	15-30	50-100	
Sweetgum	NA	Yellow/Orange	50	+100	
Willow Oak	NA	Yellow	40-60	+100	

Large Trees -- 70' tall or more

Species	Flowers	Fall Leaf Color	Spread	Lifespan	Notes
American Beech	NA	Yellow/Orange	40-80	100+	
Baldcypress	NA	Yellow	25-35	100+	
Black Cherry	W. Spring	Yellow/Orange	35-50	100+	
Black Walnut	NA	NA	60-80	100+	
Hickory	NA	Yellow	30-40	100+	
Pines	NA	NA	50-60	50-100	
Shumard Oak	NA	Red/Purple	40-50	100+	
Southern Magnolia	W. Summer	NA	30-40	100+	
Sugar Maple	NA	Yellow/Orange	35-50	100+	
Sycamore	NA	Yellow	60-70	50-100	
White Oak	NA	Yellow/Orange	60-80	100+	
Yellow poplar	Y. Spring	Yellow/Orange	25-40	100+	

Trees to Reconsider

Black Locust: Thorny, sprouter, and locust leaf miner discolors leaves.

Black Willow & Weeping Willow: Short lived, roots affect underground utility lines.

Bradford Pear: Brittle and short lived.

Chinaberry/Chinese Tallowtree: Exotic Invasive.

Cottonwood / Hybrid Poplar: Weak wooded and short lived,

Ginko: Only select male cultivars, such as Autumn Gold, Princeton Sentry, and Saratoga.

Hackberry: Susceptible to ice damage, thin bark, surface roots.

Leyland Cypress: Canker and bagworm susceptible and fast grower.

Lombardy Poplar: Short lived and susceptible to stem canker.

Mimosa: Exotic Invasive.

Norway Maple: Shallow & fibrous roots, girdling roots, susceptible to aphids.

Paper Birch: Susceptible to insects, diseases & fungi, and short lived.

Pin Oak: Very large tree with lots of acorns.

Siberian Elm: Brittle wood, surface roots, and lots of litter.

Silver Maple & Boxelder: Shallow & dense roots, weak wood, and short lived.

Tree-of-Heaven / Ailanthus: Exotic Invasive.

Virginia Pine: shallow roots and irregular crowns.

White Pine: Large, fast growing, intolerant heat and moisture stress.

Livingston Tree Care Plan

Months	Activity	Location
December-February	Prune & Remove Hazard Trees	
	1/4 Meeting	
	Complete Leaf Pickup	
	Public Hearing	
March-May	Tree Inventory	
	Health Assessment	
	Plant Trees	
	Water Newly Planted Trees	
	1/4 Meeting	
	Landscaping	
	Arbor Day Events	
June-August	Continue Watering	
	1/4 Meeting	
	Landscaping	
	Grant Applications	

September-November	Leaf Pick-up	
	Media Releases	
	1/4 Meeting	
	Prune & Remove Hazard Trees	
	Develop Education Programs	

ORDINANCE NO. 2009-10-1**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF LIVINGSTON TENNESSEE.**

WHEREAS some of the ordinances of the Town of Livingston are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Livingston, 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 "Livingston Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF LIVINGSTON, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Livingston Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the

portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

Each day any violation of the municipal code continues shall constitute a separate civil offense.

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, 10-5, 2009.

Passed 2nd reading, 10-2, 2009.

William C. Hayes Jr

Mayor

William C. Hayes Jr

Recorder