THE

MADISONVILLE

MUNICIPAL

CODE

Prepared by the

MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

May 2002

Change 4, January 7, 2019

CITY OF MADISONVILLE, TENNESSEE

MAYOR

Glenn Moser

VICE MAYOR

Linda Garrett-Hensley

ALDERMEN

James Bledsoe

Fred Cagle

Augusta Davis

Susan Saunders

RECORDER

Sherri McCrary

PREFACE

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

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

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

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

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

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

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

The able assistance of Linda Dean, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Sandy Selvage, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

Ordinances adopted by the City of Madisonville, Tennessee, should be adopted in accordance with the requirements of section 7 of the adopting ordinance in the Madisonville Municipal Code. The following is a suggested format for drafting ordinances:

START OFF BY GIVING EACH ORDINANCE A NUMBER: ALL ORDINANCES SHOULD BE NUMBERED IN SEQUENCE: 1, 2, 3, ETC.

Ordinance No. _____

USE A CAPTION LIKE THE FOLLOWING WHEN THE ORDINANCE SHOULD BE ADDED TO THE CODE OR DEALS WITH SOMETHING IN THE CODE.

An ordinance to amend the "Madisonville Municipal Code" by (State here what changes are to be made. Example: revising section 6-301.)

USE A CAPTION LIKE THE FOLLOWING WHEN THE ORDINANCE DOES NOT AFFECT THE CODE.

An ordinance to (state here what the ordinance does. Example: adopt an annual budget.)

USE THE FOLLOWING ORDAINING CLAUSE IN EVERY ORDINANCE.

Be it ordained by the Council of the City of Madisonville, Tennessee, that:

NUMBER EACH SECTION OF THE ORDINANCE IN SEQUENCE: 1, 2, 3, ETC.

USE A SECTION LIKE THE FOLLOWING WHEN ADDING AN ENTIRE NEW CHAPTER TO THE CODE.

Section ____. The following new chapter is added to title _____ in the "Madisonville Municipal Code.":

CHAPTER ____

SECTION

____ - ____. _____.

____ - ____. _____. _____

____ - ____. _____.

_____

____ - ____. _____. _____

_____

USE A SECTION LIKE THE FOLLOWING WHEN ADDING A NEW SECTION TO THE CODE.

Section ____. The following new section is added to the "Madisonville Municipal Code":

____ - ____. _____. _____

_____

_____

USE A SECTION LIKE THE FOLLOWING WHEN DELETING A SECTION OF THE CODE AND NOT REPLACING IT.

Section ___. Section __ - _____ of the "Madisonville Municipal Code" is hereby deleted in its entirety.

USE A SECTION LIKE THE FOLLOWING WHEN CHANGING A SECTION OF THE CODE.

Section ____. Section __ - _____ of the "Madisonville Municipal Code" is revised in its entirety to read as follows:

___ - ____. _____. _____

_____

_____

USE THIS FINAL SECTION IN EVERY ORDINANCE.

Section ____. This ordinance shall take effect upon adoption, the public welfare requiring it.

PASS ALL ORDINANCES ON ONE READING.

Adopted _____, 20____.

HAVE ALL ORDINANCES SIGNED BY THE MAYOR AND RECORDER.

_____
Mayor

_____
Recorder

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER
1. CITY COUNCIL.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.
5. DEPARTMENT DESIGNATION PROCEDURES.

CHAPTER 1

CITY COUNCIL[2]

SECTION
1-101. Time and place of regular meetings.
1-102. Order of business.
1-103. General rules of order.
1-104. Resolutions and ordinances to be written and seconded.
1-105. Discussion by citizens to be limited.
1-106. Requirement for passage of motions, resolutions and ordinances.
1-107. Method for placing items on the agenda.

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[1]Charter references
See the charter index, the charter itself, and footnote references to the charter in the front of this code.
Municipal code references
Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14.

[2]Charter references
Compensation: § 16.
Employees--power to appoint, etc.: § 5.
Enumerated powers: § 10.
Powers and duties: § 9.
Qualifications: § 7.
Term of office, etc.: § 4.

1-101. Time and place of regular meetings. The city council shall hold regular monthly meetings at a location which is placed in the local newspaper. (1988 Code, § 1-101, modified)

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

(1) Call to order by the mayor.
(2) Roll call by the recorder.
(3) Reading of minutes of the previous meeting by the recorder, and approval or correction.
(4) Communications from the mayor.
(5) Reports from committees, members of the city council, and other officers.
(6) Old business.
(7) New business.
(8) Grievances from citizens.
(9) Adjournment. (1988 Code, § 1-102, modified)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1988 Code, § 1-103, modified)

1-104. Resolutions and ordinances to be written and seconded. All resolutions and ordinances shall be reduced to writing, and distributed to the council before or at the meeting in which they are introduced and debated.

1-105. Discussion by citizens to be limited. No citizen shall be allowed to speak for more than five (5) minutes on the same grievance or issue before the council, without the consent of the majority of the council. (as replacd by Ord. #18-283-O, Oct. 2018

1-106. Requirement for passage of motions, resolutions and ordinances. It shall only be necessary for motions and resolutions to be passed one time; all ordinances shall pass by majority vote of the members present and voting at two (2) separate meetings. However, at least thirteen (13) days shall have lapsed between the first and final passage of any ordinance.

1-107. Method for placing items on the agenda. (1) The mayor, or any councilmember, may have any item placed on the agenda for a meeting by notifying the city recorder, one (1) week prior to the meeting, of the subject matter and all attachments which will be presented to the city council as part of the request. The city recorder shall include this information in the agenda

packet for the city council. No item may be added to the agenda after this deadline except by the affirmative vote of at least a simple majority of those councilmembers present.

(2) Any citizen wishing to address the city council at a meeting on a matter not on the agenda, must notify the city recorder by noon on the Tuesday before the meeting of the subject matter and provide all attachments which will be presented to the city council as part of the address. The city recorder shall include this information in the agenda packet for the city council. No presentations may be made to the city council as part of the address. The city recorder shall include this information in the agenda packet for the city council. No presentations may be made to the city council at a meeting unless the presenter has complied with the provisions of this subsection. However, the city council, by the affirmative vote of at least a simple majority of those councilmembers present, may agree to hear the matter.

CHAPTER 2

MAYOR[1]

SECTION

1-201. Generally supervises city's affairs.
1-202. Executes city's contracts.

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. (1988 Code, § 1-201)

1-202. Executes city's contracts. The mayor shall execute all contracts as authorized by the city council. (1988 Code, § 1-202)

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[1]Charter references
Compensation: § 16.
Duties: § 4.
Elections: § 6.
Qualifications: § 7.
Term of office: § 3.

CHAPTER 3

RECORDER[1]

SECTION

1-301. To collect taxes.
1-302. To be bonded.
1-303. To keep minutes, etc.
1-304. To perform general administrative duties, etc.

1-301. To collect taxes. The recorder shall collect all taxes, fees, fines, and other revenue due to the municipality, give receipts for the same, and deposit the same to the account of the city. (1988 Code, § 1-301)

1-302. 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 city council. (1988 Code, § 1-302)

1-303. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the city council and shall preserve the original copy of all ordinances in a separate ordinance book. (1988 Code, § 1-303)

1-304. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the city council and for the city which are not assigned by the charter, this code, or the city council 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. (1988 Code, § 1-304)

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[1]Charter references
Compensation: § 12.
Judicial powers: § 8.
Qualifications: § 7.

CHAPTER 4

CODE OF ETHICS[1]

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.
1-410. Ethics complaints.
1-411. Violations.

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed

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

Campaign finance: Tennessee Code Annotated, title 2, chapter 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.

officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #07-114-0, June 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. (as added by Ord. #07-114-0, June 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 himself[1] from voting on the measure. (as added by Ord. #07-114-0, June 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 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. (as added by Ord. #07-114-0, June 2007)

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

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 municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #07-114-0, June 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. (as added by Ord. #07-114-0, June 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 municipality. (as added by Ord. #07-114-0, June 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 municipality. (as added by Ord. #07-114-0, June 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 municipality's charter or any ordinance or policy. (as added by Ord. #07-114-0, June 2007)

1-410. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney

may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #07-114-0, June 2007)

1-411. <u>Violations</u>. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #07-114-0, June 2007)

CHAPTER 5

DEPARTMENT DESIGNATION PROCEDURE

SECTION

1-501. Designation of departments to aldermen.

1-501. Designation of departments to aldermen. (1) In the first regular meeting following an election, the board of mayor and aldermen will appoint aldermen to the following positions: police and fire commissioner, finance commissioner, water and gas commissioner, sewer and sanitation commissioner, and parks and recreation commissioner. Each alderman shall hold their position as commissioner until the next municipal election.

(2) As commissioners over such city departments they will provide oversight and such reports as requested by the board. (as added by Ord. #16-250-O, March 2017)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER
1. CITIZENS ADVISORY BOARD.
2. OTHER BOARDS.

CHAPTER 1

CITIZENS ADVISORY BOARD

SECTION
2-101. Creation.
2-102. Powers and duties.
2-103. Membership and compensation.
2-104. Organizations and meetings.

2-101. Creation. Pursuant to the provisions of Tennessee Code Annotated, § 11-24-103, there is hereby created a citizens advisory board hereinafter referred to as the board. (Ord. #01-96, March 1996)

2-102. Powers and duties. It shall be the duty of the board to study all matters relating to the development, maintenance and use of recreation facilities and make recommendations to the city council of the City of Madisonville regarding such matters in accordance with Tennessee Code Annotated, § 11-24-103(b)(1). (Ord. #01-96, March 1996)

2-103. Membership and compensation. The board shall consist of five (5) persons to be appointed by the mayor and to serve for terms of five (5) years, except that the members of such board first appointed shall be appointed for such terms that the term of one (1) member shall expire annually thereafter. Vacancies in such board shall be filled only for the unexpired terms and such appointment shall be made by the mayor. There shall be no compensation for service on the board. (Ord. #01-96, March 1996)

2-104. Organizations and meetings. The board shall elect from its appointed members a chairman, a vice-chairman and a secretary. The terms of office shall be for one (1) year with eligibility for re-election. The board shall meet in regular session on a quarterly basis. Meetings may also be called by the board chairman as the need arises. (Ord. #01-96, March 1996)

CHAPTER 2

OTHER BOARDS

SECTION

2-201. Authorized boards.

2-201. Authorized boards. The following advisory boards and committees are authorized for the City of Madisonville:

(1) Library board;

(2) Industrial committee;

(3) Law enforcement advisory committee;

(4) Other boards, commissions, and committees as established by the city council by ordinance.

TITLE 3

MUNICIPAL COURT[1]

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

CHAPTER 1

CITY JUDGE

SECTION
3-101. City judge.

3-101. City judge. The officer designated by the charter to handle judicial matters within the municipality shall preside over the city court and shall be known as the city judge. (1988 Code, § 1-501)

[1]Charter reference
Judicial powers of recorder: § 8.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.
3-202. Imposition of fines, penalties, and costs.
3-203. Disposition and report of fines, penalties, and costs.
3-204. Disturbance of proceedings.
3-205. Offenses and fines.

3-201. Maintenance of docket. The city court clerk shall keep a complete docket of all matters coming before the city judge in his/her judicial capacity. The docket shall include for each defendant such information as his/her name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to community service; and all other information that may be relevant. (1988 Code, § 1-502, modified)

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

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions[1] for similar work in state cases. (1988 Code, § 1-507)

3-203. 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 the city court clerk and paid over daily to the city. (1988 Code, § 1-510, modified)

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

Any person violating this section may be held in criminal contempt by the city judge and punished pursuant to the contempt provisions as set forth in Tennessee Code Annotated, § 29-9-103. (1988 Code, § 1-511, modified)

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[1]State law reference
Tennessee Code Annotated, § 8-21-401.

3-205. Offenses and fines. (1) Moving violations, traffic violation not jailed.

	Fine	Costs	Total
Child restraint	$50.00		$50.00
Seat belt (first offense)	$10.00		$10.00
Clinging to vehicle/following too closely	$20.00	$70.00	$90.00
Violation anti-noise-loud mufflers/music	$15.00	$70.00	$85.00
Running stop sign/red light	$50.00	$70.00	$120.00
Failure to yield/RR crossing	$50.00	$70.00	$120.00
Improper lane change/usage/turn signal	$50.00	$70.00	$120.00
Improper turn/passing/u-turn	$50.00	$70.00	$120.00
Speeding (+9 miles over)	$15.00	$70.00	$85.00
Speeding (+10-19 miles over)	$20.00	$70.00	$90.00
Speeding (+20-29 miles over)	$30.00	$70.00	$100.00
Speeding (+30 miles over)	$50.00	$70.00	$120.00
No drivers license-proof on person	$25.00	$70.00	$95.00
Financial responsibility	$25.00	$70.00	$95.00
Violation registration law	$25.00	$70.00	$95.00
Allowing unlicensed driver to drive	$50.00	$70.00	$120.00
Cruising/loitering	$15.00	$70.00	$85.00
Vehicle light law	$15.00	$70.00	$85.00
Leaving scene of accident	$50.00	$70.00	$95.00
Other minor moving offenses	$15.00	$70.00	$85.00
Wrong way on one-way street	$25.00	$70.00	$95.00

	Fine	Costs	Total
Parking violations: handicap, fire lane, no parking zones	$50.00	(No costs)	$50.00
Fines listed below are person(s) who have been released on a misdemeanor citation.			
Soliciting without a license	$50.00	$70.00	$120.00
Discharges firearm/firecrackers	$50.00	$70.00	$120.00
All other violations	$50.00	$70.00	$120.00
City ordinance violations			
Dogs at large/leash law (first offense)	$10.00	$70.00	$80.00
*Second offense and thereafter	$50.00	$70.00	$120.00
Skateboarding	$10.00	$70.00	$80.00
Codes compliance	$50.00		

(2) In all cases heard and determined by him, the city judge shall impose court costs in the minimum amount of seventy dollars ($70.00). One dollar ($1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. In addition, the court shall levy a local litigation tax in the amount of thirteen dollars and seventy-five cents ($13.75) in all cases in which the state litigation tax is levied. (as added by Ord. #11-179-0, Sept. 2011)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.
3-302. Issuance of summonses.
3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.[1] The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1988 Code, § 1-503)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made a summons may issue in lieu of an arrest warrent, 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 municipal code or 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. (1988 Code, § 1-504, modified)

3-303. Issuance of subpoenas. Subpoena may be issued to all persons whose testimony the parties believe will be relevant and material to matters coming before the court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1988 Code, § 1-505, modified)

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[1]State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.
3-402. Appeals.
3-403. Bond amounts, conditions, and forms.

3-401. 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. (1988 Code, § 1-507)

3-402. 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] (1988 Code, § 1-508)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place.

An appeal bond in any case shall be in such sum as the city judge shall prescribe, not to exceed 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 in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1988 Code, § 1-509)

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[1]State law reference
Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER
1. SOCIAL SECURITY.
2. PERSONNEL POLICY.
3. DRUG AND ALCOHOL TESTING POLICY.
4. TRAVEL POLICY.
5. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

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. Exemption from coverage.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this city to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1988 Code, § 1-601)

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. (1988 Code, § 1-602)

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. (1988 Code, § 1-603)

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. (1988 Code, § 1-604)

4-105. Records and reports to be made. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1988 Code, § 1-605)

4-106. Exemption from coverage. There is hereby exempted from this chapter any authority to make any agreement with respect to any position, any employee or official not authorized to be covered by applicable state and federal laws or regulations. (1988 Code, § 1-606)

CHAPTER 2

PERSONNEL POLICY

SECTION

4-201. Purpose, at-will status, coverage.
4-202. Definitions--employees.
4-203. Hiring procedures.
4-204. Benefits.
4-205. Grievance procedures.
4-206. State and federal personnel mandates.
4-207. [Repealed.]
4-208. Dismissal.
4-209. Policy changes.

4-201. Purpose, at-will status, coverage. (1) Purpose. The purpose of this chapter is to establish a system of personnel administration in the City of Madisonville, Tennessee.

(2) At-will employer. The City of Madisonville, Tennessee is an at-will employer. Nothing in this chapter may be construed as creating a property right or contract right to any job for any employee.[1]

(3) Coverage. The following personnel are not covered by this policy, unless otherwise provided:

(a) All elected officials.

(b) Members of appointed boards and commissions.

(c) Consultants, advisors, risk management advisor, and legal counsel rendering temporary professional service.

(d) The city attorney.

(e) Independent contractors and/or contract employees.

(f) Volunteer personnel.

(g) The city judge.

All other employees of the City of Madisonville's municipal government are covered by this personnel policy.

4-202. Definitions--employees. (1) Full-time. Full-time employees are individuals employed by the City of Madisonville who normally work 30 hours per week.

(2) Part-time. Part-time employees are individuals who may not work on a daily basis or work on a daily basis fewer than 8 hours a day and may work fewer than 30 hours per week or who are temporary and/or seasonal employees.

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[1]State law reference
Tennessee Code Annotated, § 6-54-123.

The benefits set out in this policy are intended to apply only to full-time employees. These rules and regulations are not intended to establish paid leave of any kind for part-time employees.

4-203. Hiring procedures. (1) Policy statement. The primary objective of this hiring policy is to insure compliance with the law and to obtain qualified personnel to serve the citizens of the City of Madisonville. The City of Madisonville shall make reasonable accommodations in all hiring procedures for all persons with disabilities.

(2) Application. All persons seeking appointment or employment with the City of Madisonville must complete a standard application form provided by the municipal government. Applications for employment shall be accepted in the city recorder's office during regular office hours only. Applications will remain on active status for six (6) months after accepted or until the job for which the application is submitted is filled, whichever period of time is less.

(3) Interviews. All appointments will be preceded by an interview with the department head and/or the alderman in charge of that department.

(4) Pre-appointment exams. For certain positions, the employee may be required to undergo a validated physical agility examination related to the essential functions of the job, validated written and/or oral tests related to the essential functions of the job, drug testing, and, upon a conditional offer of employment, a medical examination to determine the employee's ability to perform the essential functions of the job. Reasonable accommodations shall be made in the physical agility exam for applicants with disabilities making a request for accommodations.

(5) Appointments, etc. All appointments shall be made in accordance with lawful provisions of the City of Madisonville's charter. The City of Madisonville is an equal employment opportunity employer.

4-204. Benefits. (1) Holidays. (a) Except and in addition to such other holidays as may be from time to time declared by the city council, the following days shall be official holidays for full-time employees of the City of Madisonville:

(i)	New Year's Day	January 1st
(ii)	Martin Luther King Day	Third Monday in January
(iii)	Good Friday	Friday before Easter Sunday
(iv)	Memorial Day	Last Monday in May
(v)	Independence Day	July 4th
(vi)	Labor Day	First Monday in September
(vii)	Veteran's Day	November 11
(viii)	Thanksgiving Day	Fourth Thursday in November
(ix)	Fri. after Thanksgiving	Fourth Friday in November
(x)	Christmas Eve	December 24

(xi)	Christmas Day	December 25
(xii)	Day after Christmas	December 26
(xiii)	Employee's Birthday	When it occurs

(b) When a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday, and when a holiday falls on a Sunday, the following Monday shall be observed as the holiday.

(c) All full-time employees of the City of Madisonville shall be compensated for any holiday granted in this chapter or otherwise designated by the city council by receiving eight (8) hours of (bonus) pay for each of the above holidays whether on duty or not. However, in the interest of continuing essential municipal services, any city employee may be required to work on any holiday. Working on any holiday is a condition of employment for all city employees. Employees who are required to work on any holiday shall be paid at a rate of pay that is dependent on their total time worked during that pay period.

(d) No employee shall be authorized to work on a holiday without the prior command or approval of the head of the department for whom the employee works. However, the city council may from time to time prescribe such other rules, regulations and limitations on overtime work as it desires.

(e) Any employee who is absent without leave on any working day immediately preceding or immediately following any holiday shall not be entitled to be paid for such holiday.

(2) Vacation leave. (a) All full-time employees of the City of Madisonville shall accrue vacation leave upon the completion of each calendar year of service. Vacation leave will begin to accrue as of the first full month of employment, but cannot be taken until the employee has completed twelve full months of employment. As the number of years of service increases, the amount of leave granted increases and may accumulate to the maximum accrual as shown in the table below:

Years of Service	Annual Vacation Leave Time
1 year	5 working days
2 years	10 working days
5 years and over	15 working days

For vacation leave purposes, the term "working day" as it applies herein shall be computed on an eight (8) hours basis.

Vacation leave exceeding the maximum accrual limit of thirty (30) days shall be forfeited.

Vacation leave shall be taken at a time approved by the employee's supervisor. Upon separation, employees are entitled to be reimbursed for any unused vacation leave, not to exceed the maximum accrual allowed for the years of service completed.

(3) Sick leave. All full-time employees shall accumulate eight (8) hours of sick leave with pay for each month of work completed for the City of Madisonville. Sick leave shall be considered a benefit and privilege and not a right for employees to use at their discretion. Employees shall, therefore, utilize their accumulated sick leave allowance for absences due to personal illness or physical incapacity, personal illness or physical incapacity within the immediate family of the employee. Sick leave may be granted for any of the following reasons:

(a) Personal illness or physical incapacity resulting from causes beyond the employee's control.

(b) Exposure to contagious disease so that employee's presence at work might jeopardize the health of other employees.

(c) Medical, dental, optical or other professional treatments or examinations.

(d) Acute illness of a member of the employee's immediate family (i.e., spouse, parents, children).

Employees will be compensated at the end of the calendar year for all unused sick leave. Unused sick leave hours will be computed and checks will be issued during the month of December of each year. The rate of compensation will be the employee's regular rate of pay at the time checks are issued. Employees shall be paid for unused sick leave upon the employee's termination, resignation, or retirement.

(4) Bereavement leave. In the case of the death in the employee's immediate family, the employee will be given up to three (3) working days paid leave which will not be charged to vacation time. Immediate family shall be defined as spouse, parent, child, brother, sister, mother-in-law, father-in-law, grandparent or grandchild of the employee and legal guardian or dependents. Any extended family member of the employee, i.e., aunt, uncle, cousin, etc., shall be given one (1) working day paid leave.

(5) Leave without pay. A regular or part-time employee who is in good standing may be granted a leave without pay for a period not to exceed ninety (90) calendar days in any one calendar year upon the approval of the City of Madisonville's Board of Aldermen.

4-205. Grievance policy. The purpose of this section is to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administrative orders involving only the employee's work area, reasonable accommodations under Americans with Disabilities Act, physical

facilities, unsafe equipment, or unsafe material used. The grievance must be submitted within five (5) working days of the incident causing the grievance.

Employees must remember that there is no grievance until the department head or other appropriate person has been made aware of the dissatisfaction by written notice. Once this is done, the following steps are to be taken:

Step 1. Discuss the problem with the immediate supervisor. If satisfaction is not obtained, the grievance is advanced to the second step.

Step 2. Discuss the problem with the appropriate department head. If the grievance is not resolved, it is advanced to the third step along with all documentation.

Step 3. Discuss the problem with the alderman and department head for the department. The alderman and department head's decision is the last and final step in the process. The decision of the alderman and department head is final and binding to all parties involved.

4-206. State and federal personnel mandates. (1) Discrimination prohibited. The City of Madisonville is an equal opportunity employer. Except as otherwise permitted by law, the City of Madisonville will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, or because the individual is forty (40) or more years of age. The municipality will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment. (Title VII of Civil Rights Act of 1964-42 U.S.C. §§ 2000e-2000e-15; Equal Pay Act of 1963-29 U.S.C. § 206(d); Age Discrimination in Employment Act - 29 U.S.C. §§ 621 et seq.; Americans With Disabilities Act - 42 U.S.C. §§ 506 et seq.)

(2) Sexual harassment prohibited. Sexual harassment by any employee or elected or appointed official of the City of Madisonville will not be tolerated. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that creates a hostile work environment, makes decisions contingent on sexual favors, or adversely affects an employee's job performance. Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to the supervisor, department head,

or alderman for their department. Within the limits of the Tennessee Open Records Law, the City of Madisonville will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.

The City of Madisonville will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. If the City of Madisonville determines that sexual harassment has occurred, corrective action will be taken. The City of Madisonville will attempt to make the corrective action reflect the severity of the conduct. If it is determined that no harassment has occurred, this will be communicated to the employee who made the complaint, along with the reasons for the determination.

(3) Occupational safety and health. The City of Madisonville shall provide job safety and health protection for all employees in accordance with the Occupation Safety and Health Administration (OSHA) Legislation (29 U.S.C. §§ 656 et seq.) and the Tennessee OSHA Law. (Tennessee Code Annotated, § 50-3-101, et seq.)

(4) Overtime compensation. The Fair Labor Standards Act (FLSA) shall govern the overtime compensation of the City of Madisonville employees (29 CFR §§ 553.1 et seq.).

(5) Military leave/veteran's re-employment. All employees who are members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and they must be given such leave with pay not exceeding 15 working days in any one calendar year. Also, any employee of the City of Madisonville who leaves his/her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the job in accordance with Veteran's Re-employment Rights (38 U.S.C. § 202-2016) and the Tennessee Military Leave Act, Tennessee Code Annotated, § 8-33-101, et seq.

(6) Family and medical leave. If the municipality has 50 or more employees on the payroll an eligible employee (one who has been employed at least 12 months and worked at least 1250 hours in the preceding 12 months) will be provided 12 calendar weeks of unpaid leave for medical conditions of the employee or his/her family members in accordance with the Family and Medical Leave Act (P.L. 103-3).

(7) Commercial driver's license. All employees that drive

(a) A vehicle with a gross weight of more than 26,000 pounds;

(b) A trailer with a gross weight of more than 10,000 pounds;

(c) A vehicle designed to transport more than 15 passengers, including the driver; and

(d) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee Commercial Driver's License in accordance with Tennessee Code Annotated, § 55-50-10, et seq. Fire

truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

(8) Employee drug testing. All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, Title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199). Other employees may be subject to drug testing in accordance with the drug testing policy of the City of Madisonville. The City of Madisonville's procedures for drug testing can be found in Ordinance/Resolution number 6-98-C, March 5, 2001.

(9) Residence requirements. No person "currently employed" by the City of Madisonville can be dismissed or penalized "solely on the basis of non-residence." Tennessee Code Annotated, § 8-50-107. However, all future employees shall be required to live within a five-mile radius of the City of Madisonville.

(10) Employee right to contact elected officials. No employee shall be disciplined or discriminated against for communicating with an electing official. However an employee may be reprimanded for making untrue allegations concerning any job-related matter. Tennessee Code Annotated, §§ 8-50-601 through 8-50-604.

(11) Civil leave. Civil leave with pay shall be granted to employees for the following reasons:

(a) Jury duty. Tennessee Code Annotated, § 22-4-108.

(b) To answer a subpoena to testify for the municipality.

(12) Voting. When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with Tennessee Code Annotated, § 2-1-106.

(13) Political activity. Employees have the same rights as other citizens to be a candidate for state or local political office (except for membership on the municipal governing body) and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election. Tennessee Code Annotated, § 7-1-1501.

(14) Travel policy. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy, ordinance number 02-12-96, as required by Tennessee Code Annotated, § 6-54-901.

4-207. [Repealed.] (as repealed by Ord. #07-114-0, June 2007)

4-208. Dismissal. (1) At-will. Employees may be dismissed for cause, for no cause, or for any cause as long as it does not violate federal and/or state law or the municipal charter.

(2) Name clearing hearing. A name-clearing hearing will be given to any terminated, demoted, or suspended employee that requests one. This hearing will not be conducted to provide an employee any property rights. The purpose of the hearing is solely to let the employee clear his/her name. The request for a hearing must be in writing, addressed to the mayor. The request will be presented at the next regular board meeting if the request is given at least one (1) week before the scheduled meeting. The board has the right to postpone the hearing until the next board meeting at the board's option.

4-209. Policy changes. Nothing in this chapter may be construed as creating a property right or contract right to the job for any employee. The provisions of this personnel policy may be unilaterally changed by ordinance of the governing body from time to time as the need arises.

CHAPTER 3

DRUG AND ALCOHOL TESTING POLICY

SECTION

4-301. Purpose.
4-302. Scope.
4-303. Consent form.
4-304. Compliance with substance abuse policy.
4-305. General rules.
4-306. Drug testing.
4-307. Prohibited drugs.
4-308. Drug testing collection procedures.
4-309. Drug testing laboratory standards and procedures.
4-310. Reporting and reviewing.
4-311. Alcohol testing.
4-312. Alcohol testing procedures.
4-313. Education and training.
4-314. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result.
4-315. Voluntary disclosure of drug and/or alcohol use.
4-316. Exceptions.
4-317. Modification of policy.

4-301. Purpose. The City of Madisonville recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City of Madisonville to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the City of Madisonville are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of Madisonville has adopted this drug and alcohol testing policy effective _____ 2006. This policy complies with the Federal Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol- and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require alcohol and drug testing for persons required to have a commercial driver's license (CDL); division of transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass

transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "spit specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the City of Madisonville that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

(1) Being on duty or performing work in or on city property while under the influence of prohibited drugs and/or alcohol.

(2) Engaging in the manufacture, sale, distribution, use, or unauthorized possession of drugs at any time and of alcohol while on duty or while in or on city property.

(3) Refusing or failing a drug and/or alcohol test administered under this policy.

(4) Providing an adulterated, altered, or substituted specimen for testing.

(5) Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty, and

(6) Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform proper supervisory personnel of his/her use of any legally prescribed medication which may impair the employee's ability to perform his/her duties before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse, the effects of drug and/or alcohol abuse on an individual's health, work, and personal life, the city's policy regarding drugs and/or alcohol; and the availability of counseling. The city recorder has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All City of Madisonville property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers. Employee-assigned lockers that are locked by the employee are also

subject to inspection by the employee's supervisor in the presence of the employee after reasonable advance notice to the employee, unless such notice is waived by the city recorder. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-302. Scope. Certain aspects of this policy apply to all full-time, part-time, temporary, and volunteer employees of the City of Madisonville. The policy also applies to applicants for positions requiring a CDL and other safety sensitive positions who have been given a conditional offer of employment from the City of Madisonville. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-303. Consent form. Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the medical review officer (MRO), city recorder, or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing policy.

The consent form shall set forth the following information:

(1) The procedure for confirming and verifying an initial positive test result;

(2) The consequence of a verified positive test result, and

(3) The consequences of refusing to undergo a drug and/or alcohol test.

The consent for also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-304. Compliance with substance abuse policy. Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-305. General rules. These are the general rules governing the City of Madisonville's alcohol testing program:

(1) City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications which may

adversely effect the employee's ability to perform his/her duties in a safe manner shall notify the proper supervisory personnel before the employees go on duty.

(2) City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.

(3) All City of Madisonville property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers. Employee-assigned lockers that are locked by the employee are also subject to inspection by the employee's supervisor in the presence of the employee after reasonable advance notice to the employee, unless such notice is waived by the city recorder.

(4) Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five days of the conviction occurring. Failure to so inform the city subjects the employee to disciplinary action up to and including termination for the first offense. The city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-306. Drug testing. Any applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six separate conditions:

(1) Pre-employment. All employment applications for safety sensitive positions who have received a conditional offer of employment with the City of Madisonville must take a drug test before receiving a final offer of employment. Safety sensitive positions include police officers, firefighters, positions requiring a commercial drivers license, public works positions involving the operation of heavy equipment, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children.

Employees transferring to a "safety sensitive" position, as that term is defined in the preceding paragraph, shall undergo drug testing and/or another position within the city that requires a commercial driver's license (CDL) shall undergo drug.

(2) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel of the City of Madisonville to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring inpatient hospitalization, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a

contributing factor to the accident (incident) or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection sites.

In instances where post-accident (post-incident) testing is to be performed, the City of Madisonville reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(a) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, any affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of Madisonville to the designated urine specimen collection site within 32 hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the City of Madisonville and shall result in administrative action up to and including termination of employment.

(b) Post-accident (post-incident) testing for injured employees. Any affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Madisonville appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Madisonville or upon hiring following the implementation date.

(3) Testing based on reasonable suspicion. A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Madisonville making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city recorder within 24 hours of the decision to test and before the results of the urine drug tests are received by the department.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

(4) Random testing. Only employees of the City of Madisonville holding safety sensitive positions are subject to random alcohol and drug testing. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the City of Madisonville to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more that once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of Madisonville may omit that employee from that random testing or await the employee's return to work.

(5) Return-to-duty and follow-up. Any employee of the City of Madisonville who has violated the prohibited drug conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns

to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-307. Prohibited drugs. All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the city recorder. The following is a list of drugs for which tests will be routinely conducted.

(1) Amphetamines,
(2) Marijuana,
(3) Cocaine,
(4) Opiates,
(5) Phencyclidine (PCP),
(6) Alcohol, and
(7) Depressants.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-308. Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employee, except in cases of random testing, will be taken by a supervisor or designated personnel of the City of Madisonville to a drug test collection facility selected by the City of Madisonville, where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City of Madisonville to perform the analysis on collected urine samples. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-309. Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures; each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to the laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the city recorder who will notify the immediate supervisor. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-310. Reporting and reviewing. The City of Madisonville shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders.

(1) The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of Madisonville.

(2) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

(3) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the city recorder, and the employee.

(4) Neither the City of Madisonville, the laboratory, nor the MRO shall disclose any drug test results to any other person except upon written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-311. Alcohol testing. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test.

Employees and applicants may be required to submit to alcohol testing under six separate conditions:

(1) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel of the City of

Madisonville to have resulted in significant property or environmental damage or in significant personnel injury, including but not limited to a fatality or human injury requiring in-patient hospitalization, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

(a) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of Madisonville to the designated breath alcohol test site for a breath alcohol test within two hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site within two hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. An unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the City of Madisonville and shall result in administrative action up to and including termination of employment.

(b) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Madisonville appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Madisonville or upon hiring following the implementation date.

(2) Testing based on reasonable suspicion. An alcohol test is required for each employee where there is a reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance

indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Madisonville making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city recorder within eight hours of the decision to test and before the results of the tests are received by the department.

(3) Random testing. Only employees of the City of Madisonville holding safety sensitive positions are subject to random alcohol and drug testing. Safety sensitive positions include police officers, firefighters, positions requiring a commercial drivers license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the City of Madisonville to annually random drug test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation of the specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once a year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc,) to produce a specimen on the date random testing occurs, the City of Madisonville may omit that employee from that random testing and await for the employee's return to work.

(4) Return-to-duty and follow-up. Any employee of the City of Madisonville who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-312. Alcohol testing procedures. All breath alcohol testing conducted for the City of Madisonville shall be performed using evidential

breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing is to be performed by a qualified technician as follows:

(1) Step One: An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

(2) Step Two: Fifteen minutes shall be allowed to pass following the completion of Step One, above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument; however, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City of Madisonville up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the City of Madisonville.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City of Madisonville, when possible.

The completed breath alcohol test form shall be submitted to the city recorder. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-313. Education and training. (1) Supervisory personnel who will determine reasonable suspicion testing. Training supervisory personnel who will determine whether an employee must be tested based on reasonable cause will include at the minimum two 60-minute periods of training on the specific contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The City of Madisonville will sponsor a drug-free awareness program for all employees.

(2) Distribution of information. The minimal distribution of information for all employees will include the display and distribution of:

(a) Informational material on the effects of drug and alcohol abuse;

(b) An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;

(c) The City of Madisonville policy regarding the use of prohibited drugs and/or alcohol; and

(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-314. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result. Job applicants will be denied employment with the City of Madisonville if their initial positive pre-employment drug and alcohol test results have been confirmed positive.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety sensitive function and may be subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the city employee assistance program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the city's employee assistance program or other program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of city personnel policy and regulations, nor until it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that an employee

(1) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(3) Engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-315. Voluntary disclosure of drug and/or alcohol use. In the event that an employee of the City of Madisonville is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, the employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the City of Madisonville. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment. Any costs associated with this treatment will be at the employee's expense.

Affected employees of the City of Madisonville are entitled to up to 30 consecutive calendar days for initial substance abuse treatment as follows:

(1) The employee must use all vacation, sick, and compensatory time available.

(2) In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided paid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period.

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) of the City of Madisonville. The SAP will recommend conditions of reinstatement of the employee that will include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and City Recorder of the City of Madisonville will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any

drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Madisonville. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-316. Exceptions. This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstration). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006)

4-317. Modification of policy. This statement of policy may be revised by the City of Madisonville at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the City of Madisonville. (Ord. #6-98-C, June 1998, as replaced by Ord. #06-98-13, June 2006, as replaced by Ord. #06-98-13, June 2006)

CHAPTER 4

TRAVEL POLICY

SECTION

4-401. Policy statement.
4-402. Procedures.
4-403. General information.
4-404. Responsibility

4-401. Policy statement. In order to best utilize the resources available to the city, employees are expected to minimize the costs of necessary business travel. This policy sets out regulations and restrictions governing travel expense for all officials and employees of the City of Madisonville. (Ord. #02-12-96, Nov. 1995)

4-402. Procedures. City employees shall use the most economical means available when traveling at city expense; shall thoroughly document all expenses incurred; and shall complete all necessary travel requests and reports according to the following guidelines:

(1) Transportation. (a) Public transportation. The city will pay the actual costs of coach or regular fare for public transportation by air, train, or bus.

(b) Automobile. If a city vehicle is used, the city will pay only the cost of actual expenses for gasoline, oil, and emergency repairs. If a private vehicle is used, the city will reimburse 28 cents per mile or the state rate, whichever is greater, by the most direct route to and from a meeting to a maximum of the cost of the most economical air for the same trip.

If a private vehicle is used by two or more official travelers on the same trip, only the traveler owning or having custody of the vehicle will be reimbursed for mileage in accordance with the rate outlined above.

In no event shall reimbursement for use of a private vehicle, meals, and lodging while in transit to and from destination exceed the cost of economy class air fare.

Additional travel days required due to automobile travel rather than air travel, when automobile travel is selected as a matter of personal preference by traveler rather than by the city, shall be taken as annual leave or other appropriate leave.

The city will reimburse for car rental, including mileage, when any employee can justify the necessity for a vehicle. The employee should include this expense in estimating the cost of the trip beforehand, and be prepared to justify the need for a car at the location. Liability coverage listing the City of Madisonville as insured must be obtained from the

vendor for any use of rental vehicles. Whenever possible, public transportation should be utilized in lieu of rental vehicles.

Employees will not be reimbursed for any fines for traffic violations or parking tickets. Costs incurred to private vehicles due to accidents, or the cost of repairs due to breakdowns of private vehicles will not be reimbursed to employees.

The spouse of an employee may travel in a city vehicle on approved city travel, although the city will not pay other expenses of the spouse.

City vehicles are available and should be used in lieu of private vehicles whenever practical. City vehicles shall not be utilized when the employee intends to combine business travel with annual leave away from the city. Arrangements for city vehicles can be made through the corresponding department head/commissioner.

(2) Lodging. Reimbursement for lodging will be based upon the locality, purpose for travel, and availability of accommodations. Reasonableness and economy should be exercised by the traveler in all instances.

The city will not reimburse for suites or resort accommodations unless the expense is approved in advance of the trip.

The city will pay lodging expenses at the single room rate, except when two or more city personnel share a room. In that case, the city will pay the cost of the room.

The employee will reimburse the city for the difference in cost between a single room rate and a double room rate if the employee shares the room with his or her spouse. The amount to be reimbursed by the employee will be limited to the difference in the room rates and will not include any related taxes or other charges on a pro-rata basis.

(3) Meals. An employee or authorized travelers shall be reimbursed according to the state travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

Meal allowances will not be provided when meal events are included in conference registrations or are otherwise provided at no cost to the employee or authorized traveler.

If any meal is part of the official program at a conference or a seminar, the city will reimburse an employee or authorized traveler for the actual cost.

Meals for hosts and guests transacting and/or discussing city business is an allowable expense.

Receipts for meals shall not be required except if a part of the official program when the city will reimburse for actual cost.

(4) Conference expenses. The city will pay for all actual charges pertaining to an approved conference, meeting, or seminar, including registration fees and dues.

(5) Miscellaneous expenses. The city will reimburse actual charges for intra-city taxi, airport bus or limousine fares, tolls and parking, baggage

handling, and business telephone calls. The actual cost of one phone call per day (unless emergency) of reasonable length, to family will be paid by the city. (Ord. #02-12-96, Nov. 1995, as amended by Ord. #18-282-O, Oct. 2018)

4-403. General information. Advance travel funds must be requested in writing by the department head seven days prior to any travel for any employee in the department with date and time of departure and expected return.

The city will pay travel expenses upon receipt of the completed "Travel Expense Report" supported by paid receipts for transportation, lodging, registration fees, and other miscellaneous expenses authorized for reimbursement.

For the city to be able to take advantage of its sales tax exempt status as a municipal organization, a direct payment must be made from the city to the vendor of travel or lodging services. Therefore, prepayment of these expenses should be made whenever possible.

Before departure, employees will provide to their department an address and phone number where they can be contacted if the need arises while they are away. (Ord. #02-12-96, Nov. 1995)

4-404. Responsibility. All department heads are responsible for the dissemination and administration of this policy within their departments and for monitoring travel expenses of their employees.

All employees who travel on city business are responsible for compliance with the requirements of this policy, and for the exercise of sound judgment in their travel expenditures. Violation of travel rules can result in disciplinary action of employees and officials. Travel fraud can result in criminal prosecution of employees and/or officials. (Ord. #02-12-96, Nov. 1995)

CHAPTER 5

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-501. Title.
4-502. Purpose.
4-503. Coverage.
4-504. Standards authorized.
4-505. Variances from standards authorized.
4-506. Administration.
4-507. Funding the program.

4-501. Title. This chapter shall provide authority for establishing and administering the occupational safety and health program for the employees of the City of Madisonville. (as added by Ord. #04-62-0, Nov. 2004)

4-502. Purpose. The City of Madisonville, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

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

(a) Top management commitment and employee involvement;

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

(c) Develop and maintain methods for preventing or controlling 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) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee 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 State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (as added by Ord. #04-62-0, Nov. 2004)

4-503. Coverage. The provisions of the occupational safety and health program for the employees of the City of Madisonville shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Madisonville whether part-time or full-time, seasonal or permanent. (as added by Ord. #04-62-0, Nov. 2004)

4-504. Standards authorized. The occupational safety and health standards adopted by the City of Madisonville are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.[1] (as added by Ord. #04-62-0, Nov. 2004)

4-505. Variances from standards authorized. The City of Madisonville may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 5. Prior to requesting such temporary variance, the City of Madisonville shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the City of Madisonville shall be deemed sufficient notice to employees. (as added by Ord. #04-62-0, Nov. 2004)

4-506. Administration. For the purposes of this chapter, the director of occupational safety and health is to perform duties and to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of the City of Madisonville. The director shall develop a plan of operation for the program and said plan shall become a part

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[1]State law reference
Tennessee Code Annotated, title 50, chapter 5.

of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #04-62-0, Nov. 2004)

4-507. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Board of Aldermen of the City of Madisonville. (as added by Ord. #04-62-0, Nov. 2004)

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER
1. REAL AND PERSONAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.
4. PURCHASING PROCEDURES.

CHAPTER 1

REAL AND PERSONAL PROPERTY TAXES

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

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. (1988 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. (1988 Code, § 6-102)

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 state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (1988 Code, § 6-201)

5-202. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1988 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 city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.[1] (1988 Code, § 6-301)

[1]State law reference
Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

CHAPTER 4

PURCHASING PROCEDURES

SECTION

5-401. Department head; powers.
5-402. Expenditures of less than $10,000.00.
5-403. Expenditures of more than $10,000.00.
5-404. Records and reports, etc.

5-401. Department head; powers. (1) The department head (department head being city administrator or foreman, city recorder, chief of police, chief or assistant chief of fire department, codes officer or designated purchasing agent) for the city, has the power, except as set out in these procedures, to purchase materials, supplies, equipment, and services; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the city's business. All contracts, leases, and lease-purchase agreements extending beyond the end of any fiscal year must have prior approval of the governing body. (Ord. #99-19-0, May 1999)

5-402. Expenditures of less than $10,000.00. The department head shall have the authority to make purchases, leases, and lease-purchases of up to $2,500.00. Competitive bids or quotations for the purchase of items which cost less than $2,500.00 are not mandatory. Purchases of items costing more than $2,500.00, but less than $10,000.00 may be made by the department head, provided he/she has obtained at least three competitive bids or quotes. These bids/quotes are not required to be publicly advertised, and may be obtained orally or in writing. The department head should award the purchase to the lowest responsible bidder. If the successful bidder is not the lowest price, the reasons for selecting the higher-priced bid must be documented and filed with the bids. All competitive bids or quotations received shall be recorded and maintained in the office of the department head, with a copy retained at city hall, for a minimum of two years after audit. (Ord. #99-19-0, May 1999)

5-403. Expenditures of more than $10,000. (1) A description of all projects or purchases, except as herein provided, which require the expenditure of city funds of $10,000.00 or more singly or in the aggregate during any fiscal year shall be prepared by the department head and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the city recorder or department head to advertise for bids or proposals. The award of purchases, leases, or lease-purchases of $10,000.00 or more shall be made by the governing body to the lowest responsible bid, but the bid may be the best and most responsive but not the lowest cost. If this

happens, the reason for not accepting the lowest bid must be addressed and documented in the minutes of the board.

(2) Purchases amounting to $10,000.00 or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

(a) Sole source of supply or proprietary products as determined after complex search by using department and department head.

(b) Emergency expenditures with subsequent approval of the governing body.

(c) Purchases from instrumentalities created by two or more cooperating governments.

(d) Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.

(e) Purchases, leases, or lease-purchases of real property.

(f) Purchases, leases, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.

(g) Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.

(h) Purchases directed through or in conjunction with the State Department of General Services.

(i) Purchases from Tennessee state industries.

(j) Professional service contracts as provided in Tennessee Code Annotated, § 29-20-407.

(k) Tort Liability Insurance as provided in Tennessee Code Annotated, § 12-4-407.

(l) Purchases of perishable commodities. (Ord. #99-19-0, May 1999)

5-404. Records and reports, etc. The department head shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part hereof and without definitions of words and phrases from the law as herein defined. (Ord. #99-19-0, May 1999)

TITLE 6

LAW ENFORCEMENT

CHAPTER
1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST[1]

SECTION
6-101. Policemen subject to chief's orders.
6-102. Policemen to preserve law and order, etc.
6-103. When policemen to make arrests.
6-104. Disposition of persons arrested.
6-105. Police department records.

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. (1988 Code, § 1-401)

6-102. Policemen to preserve law and order, 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. (1988 Code, § 1-402)

6-103. When policemen to make arrests[1]. Unless otherwise authorized or directed in this code or other applicable law, an arrest 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 a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1988 Code, § 1-404)

6-104. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation

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[1]Municipal code reference
Traffic citations, etc.: title 15, chapter 7.

of this code or other city ordinances shall be brought before the city court. However, if the city court is not in session, the arrested person shall be allowed to post bond with the city court clerk, or, if the city court clerk is not available, with the ranking police officer on duty. If the arrested person fails or refuses to post bond, he shall be confined pending his release by the city judge. In addition, if the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (1988 Code, § 1-404)

6-105. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1988 Code, § 1-405)

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER
1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. EMERGENCY ASSISTANCE POLICY AND PROCEDURES.
5. FIREWORKS AND EXPLOSIVES.
6. OPEN BURNING.

CHAPTER 1

FIRE DISTRICT

SECTION
7-101. Fire limits described.

7-101. Fire limits described. The corporate fire district shall be as follows:

All areas of the city that are zoned C-1, C-2, C-3, or M-1 as shown on the current zoning map. (1988 Code, § 7-101, modified)

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

CHAPTER 2

FIRE CODE[1]

SECTION

7-201. Fire code adopted.
7-202. Enforcement.
7-203. Modifications.
7-204. Gasoline trucks.
7-205. Variances.
7-206. Violations and penalties.
7-207. Deleted.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, § 6-54-501 through 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,[2] 2012 edition (appendices D and I), as recommended by the International Code Council, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Fire Code has been filed with the city recorder and is available for public use and inspection. Said International Fire Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1988 Code, § 7-201, as amended by Ord. #99-17-0, March 1999, modified, and amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

7-202. Enforcement. The International Fire Code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1988 Code, § 7-202, modified, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

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

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

7-203. Modifications. The International Fire Code adopted in § 7-201 above is modified by deleting therefrom section 108, titled "Board of Appeals," in its entirety; § 7-206 below shall control appeals. (1988 Code, § 7-203, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

7-204. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline. (1988 Code, § 7-204, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

7-205. Variances. The chief of the fire department may recommend to the board of commissioners variances from the provisions of the International Fire Code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1988 Code, § 7-205, as replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

7-206. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the International Fire Code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the governing body or by a court of competent jurisdiction, within the time fixed herein. 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. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions. (1988 Code, § 7-206, modified, as amended by Ord. #09-144-0, May 2009)

7-207. Deleted. (1988 Code, § 7-207, as amended by Ord. #09-144-0, May 2009, and deleted by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

CHAPTER 3

FIRE DEPARTMENT[1]

SECTION

7-301. Establishment, equipment, and membership.
7-302. Objectives.
7-303. Organization, rules, and regulations.
7-304. Records and reports.
7-305. Tenure and compensation of members.
7-306. Chief or assistant chief responsible for training and maintenance.
7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a fire department comprised of full-time and volunteer firemen to be supported and equipped from appropriations by the city council. Any funds raised by the fire department as a whole, or by any individual or group of firemen in the name of the fire department, shall be turned over to and become the property of, the city and the city shall use such funds in the equipping of the fire department. Any and all gifts to the fire department shall be turned over to, and become the property of, the city. All other apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall also be composed of such number of physically-fit volunteer subordinate officers and firemen as the fire chief shall appoint. (1988 Code, § 7-301, modified)

7-302. Objectives. The fire department shall have as its objectives:

(1) To prevent uncontrolled fires from starting.

(2) To prevent the loss of life and property because of fires.

(3) To confine fires to their places of origin.

(4) To extinguish uncontrolled fires.

(5) To prevent loss of life from asphyxiation or drowning.

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1988 Code, § 7-302, modified)

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

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[1]Municipal code reference
Special privileges with respect to traffic: title 15, chapter 2.

fire department, under the direction of the city council. (1988 Code, § 7-303, modified)

7-304. Records and reports. The assistant chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on these matters to the mayor as the mayor requires. (1988 Code, § 7-304, modified)

7-305. Tenure and compensation of members. The fire chief shall have the authority to suspend or discharge any volunteer member of the volunteer fire department when he deems such action to be necessary for the good of the department. The chief, the assistant chief and any full-time or part-time fireman may be suspended up to thirty (30) days by the mayor but may be dismissed only by the city council.

All personnel of the fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1988 Code, § 7-305, modified)

7-306. Chief or assistant chief responsible for training and maintenance. The chief or assistant chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the city council. (1988 Code, § 7-306, modified)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1988 Code, § 7-307)

CHAPTER 4

EMERGENCY ASSISTANCE POLICY AND PROCEDURES

SECTION

7-401. Emergency assistance policy and procedures.

7-401. Emergency assistance policy and procedures. The purpose of this chapter is to establish the policy and procedures that will govern the City of Madisonville in the process of requesting emergency assistance from another local government or in responding to the request of another local government for emergency assistance.

The following sections establish the guidelines under which decisions and their extent of implementation will be made regarding emergency assistance:

(1) Definitions. "Emergency assistance" as defined in the Local Government Emergency Assistance Act of 1987 contained in Tennessee Code Annotated, § 58-2-111 shall mean fire fighting assistance, law enforcement assistance, public works assistance, emergency medical assistance, civil defense assistance, or other emergency assistance provided by local government or any combination or all of these requested by a local government in an emergency situation in which the resources of the requesting local government are not adequate to handle the emergency.

"Local government" shall mean any incorporated city or town metropolitan government, county utility district, metropolitan airport authority, or other regional district or authority.

"Requesting party" means a local government which requests emergency assistance.

"Responding party" means local government which responds to a request for emergency assistance.

(2) Requesting assistance. All requests for emergency assistance made on behalf of the City of Madisonville shall be made in conformity with the requirements of any existing mutual aid agreements and/or as may otherwise be permitted under statutory and decisional law of the state of Tennessee. The City of Madisonville, through its appropriate senior officer, in accordance with the provisions of the Local Government Emergency Assistance Act of 1987, will be in full command of its emergency as to strategy, tactics, and overall direction of the operation and shall direct the actions of the responding party by relaying orders to the senior officer in command of the responding party.

The city of City of Madisonville accepts liability for damages or injuries, as defined in Tennessee Code Annotated, § 29-20-101 et seq. caused by the negligence of its employees or the employees (including authorized volunteers) of a responding party while under the command of the senior officer of the City of Madisonville. However, the City of Madisonville does not accept liability for damages to the equipment of personnel (including authorized volunteers) of a

responding party, nor is the City of Madisonville liable for any damages caused by the negligence of the personnel of the responding party while en route to or returning from the scene of the emergency.

The City of Madisonville acknowledges that any party from whom assistance is requested has no duty to respond nor does it have any duty to stay at the scene of the emergency and may depart at its discretion.

(3) Responding to a request for emergency assistance. The City of Madisonville will respond to calls for emergency assistance only upon proper request for such assistance made by the officer on duty for the requesting city or local government. All requests for emergency assistance shall be made in conformity with the requirements of any mutual aid agreement existing by and between the City of Madisonville and the local government whose response is sought by the City of Madisonville.

Upon the receipt of a request for aid as provided for in the preceding paragraph the city is authorized to respond as follows:

(a) The city is authorized to provide at least one (1) piece of equipment and one (1) person or crew from that particular service area from which emergency assistance is requested.

(b) The greatest response that the City of Madisonville will provide is fifty percent (50%) of the personnel and resources of that particular service for which emergency assistance is requested. The City of Madisonville response shall be determined by the severity of the emergency in the requesting party's jurisdiction as senior officer of the requesting party.

The City of Madisonville has no duty to respond to a request and will reject a request for emergency assistance or will depart from the scene of the emergency based upon the discretionary judgement of the appropriate senior officer in command at the scene of the emergency or the appropriate senior officer (department head) for that service for the City of Madisonville. In cases where two or more requests for emergency assistance are made at the same time, the appropriate senior officer of the City of Madisonville shall determine, based upon a reasonable appraisal of the emergencies of the requesting jurisdictions, how best to respond to the requests. The appropriate senior officer may determine to send all available resources to the jurisdiction with the most dire emergency, or may send some resources to each requesting jurisdiction.

The City of Madisonville accepts full liability, as defined in Tennessee Code Annotated § 29-20-101 et seq. for any damages to its equipment and personnel in responding to a request for emergency assistance and for damages caused by its equipment or personnel while on route to or returning from the scene of the emergency. However, the City of Madisonville shall not be liable for any property damage or bodily injury at the actual scene of any emergency due to actions which are performed in responding to a request for emergency assistance.

The personnel of the City of Madisonville shall have extended to any geographic area as necessary as a result of a request for emergency assistance the same jurisdiction, authority, right, privileges, and immunities, including coverage under the Worker's Compensation Laws, which they have in the City of Madisonville.

Emergency assistance requests or responses will be made only with those local governments that have also adopted policies and procedures that govern their actions during such requests or responses. (as replaced by Ord. #05-84-0, Aug. 2005)

CHAPTER 5

FIREWORKS AND EXPLOSIVES

SECTION

7-501. Permit required.
7-502. Application for permit.
7-503. Issuance or refusal of permit.
7-504. Appeal.
7-505. Fee for permit.
7-506. Fireworks, loud noises, etc., prohibited.
7-507. Use of streets.
7-508. Exhibition of permit.
7-509. Policemen to enforce.
7-510. Revocation or suspension of permit.
7-511. Reapplication.
7-512. Expiration and renewal of permit.

7-501. Permit required. It shall be a civil offense for any person, organization of persons, firm or corporation to sell firecrackers or fireworks 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. (Ord. #97-3, March 1997)

7-502. 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.

(3) If employed, the name and address of the employer.

(4) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor, the nature of the offense, and the punishment or penalty assessed therefor.

(5) At the time of filing the application, a fee of two hundred fifty dollars ($250.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (Ord. #97-3, March 1997, modified)

7-503. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

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

recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the city recorder shall issue a permit upon the payment of the permit fee required by § 7-505. The city recorder shall keep a permanent record of all permits issued. (Ord. #97-3, March 1997)

7-504. 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 board of aldermen. 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. (Ord. #97-3, March 1997)

7-505. Fee for permit. There shall be a fee of two hundred fifty dollars ($250.00) for the issuance of the permit. (Ord. #97-3, March 1997)

7-506. Fireworks, loud noises, etc., prohibited. (1) Except as allowed in subsection (2) it shall be unlawful for any person, firm or corporation to ignite or discharge any type of fireworks or pyrotechnics including but not limited to firecrackers, cannon crackers, roman candles, torpedoes, or sparklers within the corporate limits of the City of Madisonville.

(2) Fireworks may be ignited or discharged within the corporate limits of the City of Madisonville each year during the following dates: January 1, New Years's Day; last Monday in May, Memorial Day; July 4 holiday, includes July 3, and July 4; Labor Day, first Monday in September; Veteran's Day, November 11; Halloween; New Year's Eve, December 31.

(3) It shall be unlawful for any person, firm or corporation to manufacture any type of fireworks or pyrotechnics within the corporate limits of the City of Madisonville.

(4) It shall be unlawful for any person to ignite or discharge any type of fireworks or pyrotechnics from any type of motor vehicle, toward any type of motor vehicle, building, or person within the corporate limits of the City of Madisonville or ignite or discharge any type of fireworks or pyrotechnics on the public square. (Ord. #01-08-0, Sept. 2001)

7-507. 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 the operation might impede or inconvenience the public use of the 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. (Ord. #97-3, March 1997)

7-508. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (Ord. #97-3, March 1997)

7-509. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (Ord. #97-3, March 1997)

7-510. Revocation or suspension of permit. (5) Permits issued under the provisions of this chapter may be revoked by the board of aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

(6) Notice of the hearing for revocation of the 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 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.

(7) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (Ord. #97-3, March 1997)

7-511. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (Ord. #97-3, March 1997)

7-512. Expiration and renewal of permit. Permits issued to permittees shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (Ord. #97-3, March 1997)

CHAPTER 6

OPEN BURNING

SECTION

7-601. Purpose.
7-602. Definition of terms.
7-603. Standards for open burning.
7-604. Permits.
7-605. Penalties.
7-606. Violations and penalties.

7-601. Purpose. The purpose of this chapter is to regulate certain open burning in order to protect the public from the hazards of uncontrolled fires and pollution. This chapter will not relieve the person who will be burning from complying with Tennessee Code Annotated, §§ 39-14-305; 39-14-401; 68-102-146 and 68-211-101, et seq. (as added by Ord. #07-122-0, Oct. 2007)

7-602. Definition of terms. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise:

(1) "Authority having jurisdiction." The organization, agency, office, department or individual responsible for approval or enforcement.

(2) "Open burning." Any person burning or causing to be burned any flammable material in a method other than within an enclosure from which burning material cannot escape.

(3) "Permit" means the written authority of the City of Madisonville issued under the authority of this chapter.

(4) "Person" means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency. (as added by Ord. #07-122-0, Oct. 2007)

7-603. Standards for open burning. It shall be unlawful for any person, as defined herein, to conduct an open burn within the corporate limits of the City of Madisonville without a permit.

(1) No person shall willfully start or cause to be started any open fire within the corporate limits of Madisonville without first obtaining a burn permit from the city.

(2) Prevailing winds at the time of ignition must be away from any dwelling, structure, highway, or other populated area, the ambient air of which may be significantly affected by smoke, fly ash, or other contaminates from burning.

(3) Burning shall not be limited when it is determined by the fire chief or his designee, based on information supplied by the National Weather Service

or other competent authority, that stagnant air conditions or inversions exist, or that such conditions may occur during the duration of the burn.

(4) Burning shall not be initiated when it is determined and or announced by the state fire marshal that dry, drought, high winds or other hazardous conditions exist to prohibit burning either statewide or in regions affecting the geographical or corporate limits of Madisonville.

(5) Burning shall not be initiated when it is determined or announced by the fire chief or his designee that dry, drought, high winds or other hazardous conditions exist to prohibit burning within the corporate limits of Madisonville.

(6) Asphaltic material, PVC, treated lumber, or items containing natural or synthetic rubber, or materials made with hydrocarbons shall not be burned or used to ignite the material to be burned or to promote the burning of such material.

(7) No burning shall be permitted within fifty feet (50') of any structure or dwelling.

(8) All fires must be attended to and under the direct supervision at all times of a person or persons that have sufficient capability and equipment to provide for complete extinguishment of the fire as needed.

(9) With the exception of permitted bonfires and campfires, all fires shall be completely extinguished by dusk. (as added by Ord. #07-122-0, Oct. 2007)

7-604. Permits. Burn permits will be obtained from the fire chief or his designee. (1) Permits issued under this chapter shall be under either one (1) of two (2) classes: standard class and large class.

(a) Standard class permits are for leaves and materials less than three (3) cubic yards and may be issued by the fire chief or his designee. Standard class permits shall be good for one (1) day between the hours of 10:00 A.M. and dusk, local time.

(b) Large class permits are for material in an amount of three (3) or more cubic yards and require the person requesting the permit to complete the form in person at least one (1) working day prior to the planned burn.

(2) All permits issued under this chapter shall be in writing, on forms provided by the fire department, in the name of the person undertaking the burning and with emergency contact information, and shall specify the specific address and area in which the burning is to occur, the type and amount of material to be burned, the duration of the permit, and such other factors as is necessary to identify the burning which is allowed under the permit.

(3) Burn sites containing three (3) cubic yards or more of the material shall be inspected by the fire chief or his designee prior to the issuance of the permit.

(4) Permits shall not be issued when it is determined by the fire chief or his designee, based on information supplied by a competent authority, that stagnant air conditions or inversions exist, or that such conditions may occur during the duration of the burn.

(5) Permits shall not be issued when it is determined or announced by the state fire marshal that dry, drought, or other conditions exist to prohibit burning either statewide or in regions affecting the geographical or corporate limits of Madisonville.

(6) Permits shall not be issued when it is determined or announced by the fire chief or his designee that dry, drought or other hazardous conditions exist to prohibit burning within the corporate limits of Madisonville.

(7) Permits shall not be issued without the approval of the authority having jurisdiction when it has cited the person or designated the burn site for being in violation of federal, state or municipal laws.

(8) The city through the fire chief has the authority to revoke a permit and to extinguish a fire for any reason affecting the health, safety or welfare of the City of Madisonville.

(9) The fire chief or designee has the authority to provide additional supplemental conditions, written on the permit, when in the best interest of the health, safety, and welfare of the City of Madisonville as it is required. (as added by Ord. #07-122-0, Oct. 2007)

7-605. Penalties. Any person violating the provisions of this chapter, or any permit issued under the authority of this chapter, or any provisions herein, shall be subject to the provisions of § 11-303 of the Code of Ordinances of the City of Madisonville, Tennessee. Each day of violations shall constitute a separate offense. The penalties provided in said section shall be separate and apart and not in lieu of all other civil or criminal penalties which may be imposed under the laws of the State of Tennessee, or the City of Madisonville, Tennessee. (as added by Ord. #07-122-0, Oct. 2007)

7-606. Violations and penalties. A violation of any provision of this chapter shall be subject to a penalty of fifty dollars ($50.00) for each offense. (as added by Ord. #07-122-0, Oct. 2007)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. [REPEALED.]
2. BEER.
3. LIQUOR STORES.

CHAPTER 1

[REPEALED]

(as repealed by Ord. #10-169-0, March 2011)

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

CHAPTER 2

BEER[1]

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. Beer permits shall be restrictive.
8-209. Classes of consumption permits.
8-210. Limitation on number of permits.
8-211. Liability insurance required.
8-212. Where establishments may be located.
8-213. Interference with public health, safety, and morals prohibited.
8-214. Issuance of permits to persons convicted of certain crimes prohibited.
8-215. Prohibited conduct or activities by beer permit holders.
8-216. Suspension and revocation of beer permits.
8-217. Privilege tax.
8-218. Civil penalty in lieu of suspension.

8-201. Beer board established. There is hereby established a beer board to be composed of the city council. The mayor shall be the chairman of the beer board. (1988 Code, § 2-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman, provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1988 Code, § 2-202)

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 record shall be a public record and shall contain at least the following: The date

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[1]State law reference

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

of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1988 Code, § 2-203)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum 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. (1988 Code, § 2-204)

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 city in accordance with the provisions of this chapter. (1988 Code, § 2-205)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (1988 Code, § 2-206)

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 City of Madisonville. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #94-1, Feb. 1994)

8-208. 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 the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1988 Code, § 2-208)

8-209. Classes of consumption permits. Permits issued by the beer board shall consist of three classes:

(1) Class 1 On Premises Permit. A Class 1 On Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Be primarily a restaurant or an eating place; and

(b) Be able to seat a minimum of thirty people, including children, in booths and at tables, in addition to any other seating it may have; and

(c) Have all seating on the interior of the building under a permanent roof.

In addition, the monthly beer sales of any establishment which holds a Class 1 On Premises Permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two consecutive months or for any three months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked.

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

A golf course is defined as a recreational facility developed for the primary sport of golf, not to be less than nine (9) holes, managed and regularly maintained by the operator of the facility and located on a minimum of fifty (50) contiguous acres. To qualify as a golf course hereunder, receipts from the sales of beer shall not exceed thirty percent (30%) of the total gross receipts for two (2) consecutive months or for any three (3) months in any calendar year for the business establishment.

Any beer consumed on the premises of the golf course, whether within any building or on the playing course itself, must be purchased at the golf course from the operator thereof.

As previously stated herein, any beer on the premises of the permit holder must be sold by the permit holder and consumed on the premises. Beer may be consumed within any building on the premises or the playing course itself. The minimum distance requirement from certain buildings as provided elsewhere herein shall be applicable to a golf course permit holder with the distance measured as required from the nearest corner of any building on the premises where beer may be consumed and the nearest corner of the building from which there must be a minimum distance. In the event the permit holder has a common property line with the owner of any building from which there must be a minimum distance, the permit holder shall provide a fence along that property line with a height not less than six feet (6') and visible space between boards not less than one and one-quarter inch (1 1/4"). A planted natural tree buffer or the

use of elevated mounds shall serve as an acceptable substitute for the fence. A buffer strip shall be defined as: "A greenbelt planted strip thirty feet (30') in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than fifteen feet (15') apart and not less than two (2) rows of shrubs or hedges, spaced not more than five feet (5') apart within the row and which grow to a height of five feet (5') or more after one (1) full growing season and which shrubs will eventually grow to not less than ten feet (10')."

In the event any part of the playing course is within three hundred feet (300') from the nearest corner of a building from which there must be a minimum distance as provided elsewhere herein, that part of the playing course must have along or near its property line the same fencing, planted buffer strip, or elevated mounds as required above for that length of the playing course within three hundred feet (300') of the nearest corner of the building of concern.

(3) Class 2 On Premises Permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 On Premises Permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 On Premises Permit.

(4) Class 3 Off Premises Permit. A Class 3 Off Premises Permit shall be issued for the consumption of beer only off the premises. To qualify for a Class 3 Off Premises Permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Be a grocery store or a convenience type market; and

(b) In either case, be primarily engaged in the sale of grocery and personal and home care and cleaning articles, but may also sell gasoline.

In addition, the monthly beer sales of any establishment which holds an off premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any establishment which for two (2) consecutive months or for three (3) months in any calendar year has beer sales exceeding twenty-five percent (25%) of its gross sales, shall have its beer permit revoked. (1988 Code, § 2-209, modified, as amended by Ord. #08-133-0, June 2008)

8-210. Limitation on number of permits. There shall be no limit on the number of Class 1 On Premises Permits and Class 3 Off Premises Permits. There shall be no more than three Class 2 On Premises Permits issued and outstanding at any time. (1988 Code, § 2-210)

8-211. Liability insurance required. Prior to granting either a Class 1 or Class 2, On Premises Beer Permit, the owner of the establishment must file with the city recorder, evidence of liquor and beer liability insurance with a limit of liability to be set pursuant to board administrative policy.

8-212. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned commercial, but in no event shall the establishment be located within five hundred feet (500') of a hospital, church, school or any public park, measured in a straight line, from the nearest point on the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the building of any hospital, church or school, and the nearest point on property line of any public park. (as replaced by Ord. #10-168-0, March 2011)

8-213. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, churches or public parks or would otherwise interfere with public health, safety or morals. In no event will a permit be issued authorizing the manufacture or storage of beer or sale of beer within five hundred feet (500') of any hospital, school, church or other public park. The distances shall be measured in a straight line from the nearest point on the building in which the beer will be stored, sold or manufactured to the nearest point on the building of any hospital, school, or church, and the nearest point on the property line of a public park. (1988 Code, § 2-211, modified, as replaced by Ord. #10-168-0, March 2011)

8-214. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (1988 Code, § 2-212)

8-215. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

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

(2) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week or at any time on Sunday. All beer shall be consumed and removed from tables and counters prior to 12:15 A.M., and any beer sold after 12:00 midnight or sold prior to 12:00 midnight and remaining on the tables or counters unconsumed after 12:15 A.M. shall be deemed to have been sold after 12:00 midnight and in violation of this section.

(3) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

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

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

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

(7) Allow drunk or disreputable persons to loiter about his premises.

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

(9) Employ any minor under 18 years of age in the sale, storage, distribution, or manufacture of beer.

(10) Allow dancing on his premises.

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

(12) Fail to provide and maintain separate sanitary toilet facilities for men and women, if beer is consumed on the premises.

In addition, it shall be unlawful for any Class 2 On Premises Permit holder to employ any person under the age of eighteen (18) on the premises in any capacity whatsoever. (1988 Code, § 2-213, modified, as amended by Ord. #10-168-0, March 2011, and Ord. #12-196-0, Aug. 2012)

8-216. Suspension and revocation of beer permits. The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. (1988 Code, § 2-214)

8-217. Privilege tax.[1] There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars ($100) per year. Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Madisonville 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. #94-1, Feb. 1994, modified)

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[1]State law reference
Tennessee Code Annotated, § 57-5-104(b).

8-218. Civil penalty in lieu of suspension.[1] The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed $1,500 for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed $1,000 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. (Ord. #94-1, Feb. 1994)

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[1]State law reference
Tennessee Code Annotated, § 57-5-108(a)(2).

CHAPTER 3

LIQUOR STORES

SECTION

8-301. Definitions.
8-302. Selling and distribution generally.
8-303. Licenses required for sale of alcoholic beverages at retail.
8-304. Licensee responsible for officers and agents.
8-305. Location of liquor store.
8-306. Limitations on building containing liquor store.
8-307. Restrictions generally.
8-308. Fees.
8-309. Records kept by licensee.
8-310. Inspections generally.
8-311. Enforcement--violations--penalties.
8-312. Certificate of compliance.
8-313. Application.
8-314. Consideration.
8-315. Restrictions upon issuance.
8-316. License from city to operate liquor store.
8-317. Restrictions on local liquor retailer's licenses.
8-318. Restrictions upon licensees and employees.
8-319. Nature of license; suspension or revocation.
8-320. Effect.

8-301. Definitions. Whenever used in this title, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverage." Alcoholic beverage means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, and wine capable of being consumed by a human being other than medicine or beer where the latter contains an alcohol content of five percent (5%) by weight or less. Alcoholic beverages also include any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol irrespective of alcoholic content. Products or beverages, including beer, containing less than one-half percent (1/2%) alcohol by volume, other than wine as defined in this section, shall not be considered alcoholic beverage and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided.

(2) "Applicant." A person applying for a local liquor store privilege license or a certificate of compliance, as the context provides.

(3) "Applicant group." More than one (1) person joining together to apply for a local liquor store privilege license or certificate of compliance, as the

context provides, to operate a single liquor store pursuant to the same application.

(4) "Application." The form or forms or other information an applicant or applicant group is required to file with the city in order to attempt to obtain a local liquor store privilege license or certificate of compliance, as the context provides.

(5) "Certificate of compliance." The certificate required in Tennessee Code Annotated, § 57-3-208, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(6) "City." The city is the City of Madisonville, Tennessee.

(7) "Co-licensees." Persons who together hold a single liquor store privilege license for a single liquor store.

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

(9) "Inspection fee." The monthly fee a licensee is required by this chapter to pay the amount of which is determined by a percentage of the gross purchase price of all alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, such inspection fee shall be the same as if the local liquor store privilege license were held by a single licensee.

(10) "License fee." The annual fee a licensee is required by this chapter to pay prior to the time of the issuance or renewal of a local liquor store privilege license. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, only one (1) license fee is required.

(11) "Licensee." The holder or holders of a local liquor store privilege license. In the event of co-licensees, each person who receives a certificate of compliance and liquor store privilege license shall be a licensee subject to rules and regulations herein.

(12) "Liquor store." The building or part of a building where a licensee conducts any of the business authorized by the local liquor store privilege license and state liquor license held by such licensee.

(13) "Local liquor store privilege license." A local liquor store privilege license issued under the provisions of this chapter for the purpose of authorizing the holder or holders thereof to engage in the business of selling alcoholic beverages at retail in the city at a liquor store. Such a local liquor store privilege license will only be granted to a person or persons who has or have a valid state liquor retailer's license. One (1) local liquor store privilege license is necessary for each liquor store to be operated in the city.

(14) "Manufactured." A structure, transportable in one (1) or more sections, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation.

(15) "Person." Person means any natural person as well as any corporation, limited liability company, partnership, firm or association or any other legal entity recognized by the laws of the State of Tennessee.

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

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

(18) "State liquor retailer's license." A license issued by the Alcoholic Beverage Commission of the State of Tennessee pursuant to Tennessee Code Annotated, § 57-3-201, et seq. permitting its holder to sell alcoholic beverages at retail in Tennessee.

(19) "Wholesaler." Wholesaler means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(20) "Wine." Wine means the product of normal alcoholic fermentation of juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. (as added by Ord. #10-169-0, March 2011)

8-302. Selling and distribution generally. It shall be unlawful for any person to engage in the business of selling or distributing alcoholic beverages within the corporate limits of the city except as provided by Tennessee Code Annotated, title 57 and by the rules and regulations promulgated thereunder and as provided under this title. (as added by Ord. #10-169-0, March 2011)

8-303. Licenses required for sale of alcoholic beverages at retail. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store provided that such sales are made in strict compliance with all federal statutes, all state laws, rules and regulations, and all provisions of this chapter and provided that such licensee has a valid and duly issued state liquor retailer's license and a valid and duly issued local liquor store privilege license from the city permitting him or her to sell alcoholic beverages at retail. Transfer of ownership or possession of any alcoholic beverage by a licensee in any manner other than by retail sale is prohibited. (as added by Ord. #10-169-0, March 2011)

8-304. Licensee responsible for officers and agents. Each licensee shall be responsible for all acts of such licensee as well as the acts of a

co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (as added by Ord. #10-169-0, March 2011)

8-305. Location of liquor store. It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the city unless at a location approved by city council. All such stores shall be located within a commercial district as appears on the official zoning map. Moreover, in no event shall such store be located within five hundred feet (500') of any hospital, school, church, or public park. With respect to establishing the proximity of any hospital, school or church from the location of a proposed liquor store, the distance of five hundred feet (500') is to be measured along a straight line from the nearest point on the hospital building, school building, or church building to the front door of the proposed liquor store. With respect to establishing the proximity of any public park from the location of a proposed liquor store, the distance of five hundred feet (500') is to be measured from the nearest point on the property line of a public park to the front door of the proposed liquor store. No liquor store shall be located where the operation of a liquor store at the premises contemplated by an application would unreasonably interfere with public health, safety or morals. (as added by Ord. #10-169-0, March 2011)

8-306. Limitations on building containing liquor store. All liquor stores shall be a permanent type of construction in a material and design approved by the city council. No liquor store shall be located in a manufactured or other movable or prefabricated type of building. All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The square footage of the liquor store display area shall be in the range of from one thousand eight hundred (1,800) square feet to two thousand two hundred (2,200) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway to the interior of the liquor store by way of large windows in the front and to the extent practical to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, land use, building and safety regulations, as adopted within the City of Madisonville Municipal Code, unless specifically stated otherwise herein. (as added by Ord. #10-169-0, March 2011)

8-307. Restrictions generally. (1) Certain devices and non-employee seating forbidden. No pinball machines, arcade gaming devices, including video games, jukeboxes or similar devices shall be permitted in any liquor store. No seating facilities, other than for employees of the liquor store, shall be permitted in any liquor store.

(2) Time and days of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on any Sunday. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 A.M. in the morning or after 11:00 P.M. at night. No liquor store shall be open for business on Thanksgiving, Christmas, New Year's Day, Labor Day or the Fourth of July.

(3) Selling or furnishing to person(s) below the age of twenty-one (21) years, etc. It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to a person below the age of twenty-one (21) years or to a person visibly intoxicated. It shall be unlawful for such person to enter or remain in a liquor store (except that employees with appropriate employee permits issued pursuant to state law who are age eighteen (18) years and older are permitted in a liquor store for the purpose of engaging in paid employment only) or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a person below the age of twenty-one (21) years to misrepresent his or her age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee.

(4) Consumption on premises of liquor store. It shall be unlawful for any licensee to sell any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. It shall be unlawful for any person who is not an employee of the liquor store to consume any alcoholic beverage in the liquor store or in the immediate vicinity of the liquor store. Any consumption of an alcoholic beverage by an employee shall be limited solely to the circumstances permitted and set forth in the Rules of the Tennessee Alcoholic Beverage Commission and any applicable federal law.

(5) Advertising. There shall be no advertising signage of any kind whatsoever outside the building containing a liquor store either for the liquor store or to advertise any matter pertaining to alcoholic beverages sold at liquor stores except as set forth herein. There may be placed on the front of a liquor store, but not extending therefrom over twelve inches (12"), a sign setting out the name of the liquor store. Such sign shall not exceed sixty (60) square feet in dimension. No such sign shall contain letters of neon or tube lighting so as to produce lighting within letters the letters themselves though signs lit by back lighting are permitted. No reader board or changeable copy signs shall be permitted. No off-premises signs shall be allowed within the city. Regarding signage inside a liquor store, no banner or temporary or permanent signage or other material shall be placed so that it obstructs free and clear vision of the interior of the liquor store from outside of the liquor store.

(6) Off-premises business. All retail sales of alcoholic beverages shall be confined to the premises of the liquor store. No curb service is permitted, nor shall there be permitted drive-in windows. No licensee shall employ any canvasser, agent, solicitor, or other representative for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer nor shall any licensee receive or accept any such

order which shall have been solicited and received at the residence or place of business of such consumer. This subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises. (as added by Ord. #10-169-0, March 2011, and amended by Ord. #11-180-0, Feb. 2012)

8-308. Fees. (1) Amounts generally. There is hereby levied on each licensee an inspection fee of eight percent (8%) on the gross purchase price of any alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source.

(2) Collection. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee. Payment of all such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part.

(3) Reports. The city recorder shall prepare and make available to each wholesaler and other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by such licensee making purchase from such wholesaler or other source. Such wholesaler shall timely complete and return the forms and the required information and inspection fees within the time specified above.

(4) Failure to pay fees. The failure to pay the inspection fees and to make the required reports accurately and within the time required by this chapter shall, at the sole discretion of the city recorder, be cause for suspension of the offending licensee's local liquor store privilege license for as much as thirty (30) days and, at the sole discretion of the city council, be cause for revocation of such local liquor store privilege license. Each such action may be taken by giving written notice thereof to the licensee, no hearing with respect to such an offense being required. If a licensee has his or her license revoked, suspended or otherwise removed and owes the city inspection fees at the time of such suspension, revocation, or removal the city attorney may timely file the necessary action in a court of appropriate jurisdiction for recovery of such inspection fees. Further, each licensee who fails to pay or have paid on his or her behalf the inspection fees imposed hereunder shall be liable to the city for a penalty on the delinquent amount due in an amount of ten percent (10%) of the inspection fee.

(5) Use of fees. All funds derived from inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this title, including particularly the payment and compensation of officers, employees, and other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this title are observed. The city council finds and declares that the amount of these inspection fees is reasonable,

and that the funds expected to be derived from these inspection fees will be reasonably required for such purposes. (as added by Ord. #10-169-0, March 2011)

8-309. Records kept by licensee. In addition to any records specified in the state rules and regulations, each licensee shall keep on file, at such licensee's liquor store, the following records:

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

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

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

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

All such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this section. (as added by Ord. #10-169-0, March 2011)

8-310. Inspections generally. The city recorder, the city finance director, the chief of police or the authorized representatives or agents of any of them are authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege license of the offending licensee or for the refusal to renew the local liquor store privilege license of the offending licensee. (as added by Ord. #10-169-0, March 2011)

8-311. Enforcement--violations--penalties. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars ($50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify such conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with a petition that all licenses be revoked, pursuant to the provisions of Tennessee Code Annotated, chapter 3, title 57 and the rules and regulations of said commission. (as added by Ord. #10-169-0, March 2011)

8-312. Certificate of compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, city council may authorize the issuance of certificates of compliance by the city according to the terms contained herein. (as added by Ord. #10-169-0, March 2011)

8-313. Application. (1) Filing--content. An applicant or applicant group for a liquor store shall file with the city recorder a completed written application on a form to be provided by the city recorder which shall contain all of the following information and whatever additional information the city council or city recorder may require:

(a) The name and street address of each person to have an interest, direct or indirect, in the liquor store as an owner, partner, stockholder or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information on the application provided by the city;

(b) The name of the liquor store proposed;

(c) The address of the liquor store proposed and its zoning designation;

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

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

(2) Further documentation. The application form shall be accompanied by a copy of each questionnaire form and other material to be filled out by the applicant or each member of the applicant group with the Tennessee Alcoholic Beverage Commission in connection with the same application and shall be accompanied by five (5) copies of a scale plan drawn to a scale of not less than one inch equals twenty feet (1" = 20') giving the following information:

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

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

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

(d) The identification of every parcel of land within two hundred feet (200') of the lot upon which the liquor store is to be operated indicating the ownership thereof and the location of any structures thereon and the use being made of every such parcel.

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

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

(5) Fees. Each application shall be accompanied by a non-refundable five hundred dollar ($500.00) investigation fee. One (1) application fee per applicant group is sufficient. (as added by Ord. #10-169-O, March 2011, and amended by Ord. # 16-249-), Dec. 2016 and Ord. #17-260-O, Oct. 2017)

8-314. Consideration. In issuing the initial certificates of compliance sufficient for the licensing of up to two (2) liquor stores in the city permitted by this chapter, the city council will consider all applications filed, before a closing date to be fixed by it and after publication of notices published in a newspaper of general circulation in Monroe County, Tennessee required by state law. City council will select from such applications the persons deemed by it in its sole discretion to have qualifications required by law and the most suitable circumstances for the lawful operation of a liquor store without regard to the order of time in which the applications are filed. Such persons and only such persons shall receive the initial certificates of compliance issued by the city. If, thereafter, an additional license becomes available due to the cancellation, revocation or otherwise of a previously issued license, city council will select from all pending applications the applicant or applicant group deemed by it to have the qualifications required by law and the most suitable circumstances for the lawful operation of a liquor store after a closing date to be fixed by it upon public notice of the availability of such license. Such person or persons and only such person or persons will receive certificates of compliance issued by the city sufficient to allow the operation of the liquor store contemplated by the chosen application. Applications shall be retained by the city until such time as all liquor stores for which certificates of compliance have been issued by the city are opened for business. At that time, all pending applications which did not result in the granting of certificates of compliance after consideration by city council

will expire and be disposed of by the city. Applications can only be submitted to the city during the time frame the city council has set forth for receipt of such applications. Applications and all matters submitted with or as a part of such applications become at the time they are submitted the sole and exclusive property of the city and constitute public records open to public inspection. (as added by Ord. #10-169-0, March 2011)

8-315. Restrictions upon issuance. (1) Additional certificates of compliance. The city council shall not issue a certificate of compliance unless there is an available liquor store license for which no certificate of compliance has been issued and license approval by the Tennessee Alcoholic Beverage Commission is pending.

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

(3) Prerequisites of issuance. The city recorder upon approval of city council shall not sign any certificate of compliance for any applicant or applicant group until:

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

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

(c) The application has been considered at a public meeting of the city council and approved by a vote of at least three (3) members thereof.

(4) Time periods for action. Any applicant or applicant group who has obtained a certificate of compliance as provided herein must, unless an extension is granted by city council, within six (6) months open a liquor store in the city or said certificate will be revoked by the passage of this amount of time and a certification thereof will be sent to the Alcoholic Beverage Commission of the State of Tennessee and the local liquor license issued pursuant to such application shall be considered canceled and revoked. (as added by Ord. #10-169-0, March 2011)

8-316. License from city to operate liquor store. After an applicant or applicant group receives a license from the State of Tennessee to operate a retail liquor store pursuant to Tennessee Code Annotated, § 57-3-101, et seq., he or she shall apply to the city recorder for a local liquor retailer's license to operate a retail liquor store pursuant to the following terms, conditions and restrictions. (as added by Ord. #10-169-0, March 2011)

8-317. Restrictions on local liquor retailer's licenses.

(1) Maximum number of licenses. No more than two (2) local liquor retailer's licenses for the sale of alcoholic beverages at liquor stores shall be

issued under this chapter representing no more than two (2) liquor stores in the city.

(2) Term renewal. Each license shall expire on December 31st of each year. A license shall be subject to renewal each year by compliance with all applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter.

(3) Display. A licensee shall display and post and keep displayed and posted his or her license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee.

(4) Transfer. No license shall be transferred from one (1) location to another location without the express permission of the city council.

(5) Fees. A license fee of five hundred dollars ($500.00) is due at the time of application for a license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city recorder before any license shall be issued. (as added by Ord. #10-169-0, March 2011, and amended by Ord. #17-260-O, Oct. 2017)

8-318. Restrictions upon licensees and employees. (1) Initial qualifications. To be eligible to apply for or to receive a license, an applicant or in the case of an applicant group, each member of the applicant group, must satisfy all of the requirements of the state statutes and of the state rules and regulations for the holder of a liquor retailer's license.

(2) Public officers and employees. No license shall be issued to a person who is a holder of a public office either appointed or elected or who is a public employee either national, state, city or county. It shall be unlawful for any such person to have any interest in such liquor store either directly or indirectly, either proprietary or by means of a loan or participation in the profits of any such business. This prohibition shall not apply however to uncompensated, appointed members of boards or commissions who have no duties covering the regulation of alcoholic beverages or beer.

(3) Felons. No licensee shall be a person who has been convicted of a felony within ten (10) years prior to the time he or she or the legal entity with which he or she is connected shall receive a license; provided that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. In case of such conviction occurring after a license has been issued and received, the license shall immediately be revoked if such convicted felon is an individual licensee and, if not, the partnership, corporation, limited liability company or association with which he or she is connected shall immediately discharge him or her and he or she shall have no further interest therein or else such license shall be immediately revoked.

(4) Employee felons. No licensee shall employ in the storage, sale, or distribution of alcoholic beverages any person who within ten (10) years prior to the date of his or her employment shall have been convicted of a felony. In the case that an employee is convicted of a felony while he or she is employed by a licensee at a liquor store, he or she shall be immediately discharged after his or her conviction provided that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

(5) Liquor offenses. No license shall be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of this state or any state or of the United States regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors or beer who has during such period been engaged in business, alone or with others, in violation of any such laws or rules and regulations.

(6) Disclosure of interest. It shall be unlawful for any person to have ownership in or participate in, either directly or indirectly, the profits of any liquor store unless his or her interest in such business and the nature, extent and character thereof shall appear on the application or if the interest is acquired after the issuance of a license unless it be fully disclosed to the city recorder and approved by him or her in a timely manner.

(7) Age. No licensee shall be a person under the age of twenty-one (21) years and it shall be unlawful for any licensee to employ any person under the age of eighteen (18) years for the physical storage, sale or distribution of alcoholic beverages or to permit any such person under such age in his or her place of business to engage in the storage, sale or distribution of alcoholic beverages.

(8) Interest in only one liquor store. A person shall have an interest, either direct or indirect, in no more than one (1) liquor store licensed under this title in the City of Madisonville. (as added by Ord. #10-169-0, March 2011)

8-319. Nature of license; suspension or revocation. The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by city council for any violation of this title by the licensee or by any person for whose acts the licensee is responsible. The licensee shall be given reasonable notice and an opportunity to be heard before the city council suspends or revokes a license for any violation unless provided otherwise specifically herein. If the licensee is convicted of a violation of this title by a final judgment in any court and the operation of the judgment is not suspended by an appeal, upon written notice to the licensee, the city recorder may immediately suspend the license for a period not to exceed sixty (60) days, and the city council may revoke the license on the basis of such conviction thereafter. A license shall be subject to revocation or suspension without a hearing whenever

such action is expressly authorized by other provisions of this chapter stating the effect of specific violations. (as added by Ord. #10-169-0, March 2011)

8-320. Effect. The ordinance comprising this chapter shall take effect upon adoption, the public welfare requiring it. (as added by Ord. #10-169-0, March 2011)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

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

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.[1]

SECTION
9-101. Definitions.
9-102. Exemptions.
9-103. Permit required.
9-104. Permit procedure.
9-105. Restrictions on peddlers, street barkers and solicitors.
9-106. Restrictions on transient vendors.
9-107. Display of permit.
9-108. Suspension or revocation of permit.
9-109. Expiration and renewal of permit.
9-110. Violation and penalty.
9-111. Number of permits per month.

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

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

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

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[1]Municipal code references
Privilege taxes: title 5.
Trespass by peddlers, etc.: § 11-501.

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

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

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

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

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

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

(5) "Transient vendor[1]" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously

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[1]State law references

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

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

owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (1988 Code, § 5-101)

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1988 Code, § 5-102)

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. (1988 Code, § 5-103)

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

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

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

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

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

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

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

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

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit. (1988 Code, § 5-104)

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

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

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

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

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (1988 Code, § 5-105)

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (1988 Code, § 5-106)

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be

required to display the same to any police officer upon demand. (1988 Code, § 5-107)

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

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1988 Code, § 5-108)

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1988 Code, § 5-109)

9-110. Violation and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable by a penalty of up to fifty dollars ($50) for each offense. Each day a violation occurs shall constitute a separate offense. (1988 Code, § 5-110, modified)

9-111. Number of permits per month. Permits for charitable or religious solicitations within the city's corporate limits shall be issued on a first to apply basis, to be conducted on the particular day of the month by the requesting charitable or religious organization. All charitable or religious solicitation permits issued shall allow no more than four solicitors from the permittee to be within the streets at any one time and all permittees shall wear safety vests. All solicitations shall take place at the intersection of Tellico Street and Highway 411 or in the downtown area at any of the four traffic lights within the city's corporate limits. Any violation of this section will be subjected to a fine of not less than $50.00 per incident. (as added by Ord. #06-100-0, June 2006)

CHAPTER 2

YARD SALES

SECTION

9-201. Definitions.
9-202. Property permitted to be sold.
9-203. Permit required.
9-204. Permit procedure.
9-205. Permit conditions.
9-206. Hours of operation.
9-207. Exceptions.
9-208. Display of sale property.
9-209. Display of permit.
9-210. Advertising.
9-211. Persons exempted from chapter.
9-212. Violations and penalty.

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

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

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment. (1988 Code, § 5-201)

9-202. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (1988 Code, § 5-202)

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[1]Municipal code reference
Zoning ordinance: title 14, chapter 2.

9-203. Permit required. No garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore from the city recorder. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them. Permits may be obtained for any nonresidential location. (1988 Code, § 5-203)

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

(a) Full name and address of applicant or applicants.

(b) The location at which the proposed garage sale is to be held.

(c) The date or dates upon which the sale shall be held.

(d) The date or dates of any other garage sales by the same applicant or applicants within the current calendar year.

(e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale.

(f) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Permit fee. An administrative processing fee of ten dollars ($10.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit. (1988 Code, § 5-204, modified)

9-205. Permit conditions. The permit shall set forth and restrict the time and location of such garage sale. No more than three (3) such permits may be issued to one residential location, residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during any calendar year. (1988 Code, § 5-205)

9-206. Hours of operation. Garage sales shall be limited in time to no more than 9:00 A.M. to 6:00 P.M. on three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday). (1988 Code, § 5-206)

9-207. Exceptions. (1) If sale not held because of inclement weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the city recorder shall issue another permit to the applicant for a garage sale to be

conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the city recorder. (1988 Code, § 5-207)

9-208. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (1988 Code, § 5-208)

9-209. Display of permit. Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official. (1988 Code, § 5-209)

9-210. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

(a) Two signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the garage sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the garage sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property such signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (1988 Code, § 5-210)

9-211. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

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

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

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the City of Madisonville, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in

which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (1988 Code, § 5-211)

9-212. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty of up to $50.00 and costs for each offense. (1988 Code, § 5-212, modified)

CHAPTER 3

CABLE TELEVISION

SECTION

9-301. To be furnished under franchise.
9-302. Regulation of rates.
9-303. Definitions.

9-301. To be furnished under franchise. Cable television service shall be furnished to the City of Madisonville and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Madisonville and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.[1] (1988 Code, § 13-301)

9-302. Regulation of rates. Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 543, and Federal Communications Commission action under the authority of said Act certifying the city to regulate basic cable television service within the boundaries of the city; and for the purpose of regulating the rates charged to customers of any cable television operator franchised by the city; the regulations contained in Title 47 of the Code of Federal Regulations, Part 76, Subpart N, Sections 76.900 through 76.985, are hereby adopted and incorporated by reference as a part of this code. (Ord. #94-2, _____)

9-303. Definitions. Whenever the regulations cited in § 9-302 refer to "franchising authority," it shall be deemed to be a reference to the city council of the city. (Ord. #94-2, _____)

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[1]For complete details relating to the cable television franchise agreement see Ord. #87-3 dated March 9, 1987 in the office of the city recorder.

CHAPTER 4

ADULT-ORIENTED ESTABLISHMENTS

SECTION

9-401. Findings and purpose.
9-402. Definitions.
9-403. License required.
9-404. Application for license.
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9-413. Hours of operation.
9-414. Responsibilities of the operator.
9-415. Prohibitions and unlawful sexual acts.
9-416. Penalties and prosecution.

9-401. Findings and purpose. (1) The Mayor and Board of Aldermen of the City of Madisonville, Tennessee finds:

(a) That homogeneous and heterogeneous masturbatory acts and other sexual acts, including oral sex acts, could occur in adult-oriented establishments in the City of Madisonville.

(b) That offering and providing such space, areas, and rooms where such activities may take place creates conditions that generate prostitution and other crimes.

(c) That the unregulated operation of adult-oriented establishments would be detrimental to the general welfare, health, and safety of the citizens of the City of Madisonville.

(2) It is the purpose if this chapter to promote and secure the general welfare, health, and safety of the citizens of the City of Madisonville, to combat the ills of urban blight, and to prevent the possibility of declining property values commonly associated with adult oriented establishments. (Ord. #99-14-0, March 1999)

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

(1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstores," "adult motion picture theaters," "adult mini motion picture

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

(2) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, films, video cassettes, or magazines and other periodicals which are distinguished or characterized by the emphasis on matter.

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

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

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

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

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

(8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not

a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(9) "Adult entertainment" means any exhibition of any adult oriented motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical area removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

(11) "Specified sexual activities" means:

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

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

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

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

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

(b) Human male genitals in a discernibly turgid state, even if completely opaquely covered. (Ord. #99-14-0, March 1999)

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

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

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

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

(5) All existing adult oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter. If a license is not issued within said one-hundred-twenty-day period then such existing adult oriented establishment shall cease operations. (Ord. #99-14-0, March 1999)

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

(2) The application for a license shall be upon a form provided by the recorder. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five (5) percent of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

(a) Name and address, including all aliases.

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

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

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

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

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

(g) Whether the applicant has been convicted for the violation of any criminal statute, whether federal or state, or for any city ordinance violation whether the applicant has incurred any forfeiture of bond, and whether the applicant has pleaded nolo contendere to any charge, except minor traffic violations.

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

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

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

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

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

(m) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of all principal shareholders, officers and directors of the corporation.

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

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

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

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

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the recorder. (Ord. #99-14-0, March 1999)

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

(a) If the applicant is an individual:

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

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

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

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction with five (5) years immediately preceding the date of the application.

(iii) No officer, director or stockholder shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

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

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

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

(2) In addition to the requirements of subsection (1) above, the applicant must also satisfy the following distance requirements with respect to the situs of the proposed adult oriented establishment in order to receive a license to operate, to-wit:

(a) No more than one adult oriented business can be located within a five hundred (500) foot radius (determined by a straight line

from the front entrance of the adult oriented business and not street distance) from any other adult oriented business.

(b) No adult oriented business can be located within a seven hundred and fifty (750) foot radius (determined by a straight line from the front entrance of the adult oriented business and not street distance) of the closest boundary line of any residential district within the city's zoning jurisdiction, and any church, school, day care center, public park, or playground within the city's zoning jurisdiction.

(3) No license shall be issued unless the Madisonville Police Department has investigated the applicant's qualification to be licensed. The results of that investigation shall be filed in writing with the recorder no later that twenty (20) days after the date of the application. (Ord. #99-14-0, March 1999)

9-406. Permit required. In addition to the license requirement previously set forth for owners and operators of "adult oriented establishments," no person shall be an employee or entertainer in an adult oriented establishment without first obtaining a valid permit issued by the recorder. (Ord. #99-14-0, March 1999)

9-407. Application for permit. (1) Any person desiring to secure a permit shall make application to the recorder. The application shall be filed in triplicate with and dated by the recorder. A copy of the application shall be distributed promptly by the recorder to the Madisonville Police Department and to the applicant.

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

BUSINESS, TRADES AND OCCUPATIONS

(a) Name and address, including all aliases.

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

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

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

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

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

therefore, and the business entity or trade name or where the applicant was employed or associated at the time of such suspension or revocation.

(g) Whether the applicant has been convicted for the violation of any criminal statute, whether federal or state, or for any city ordinance violation whether the applicant has incurred any forfeiture of bond, and whether the applicant has pleaded nolo contendere to any charge, except minor traffic violations.

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

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

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

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

(4) Whenever an application is denied or held for further investigation, the recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board at which time the applicant may present evidence bearing upon the question. If the board denies a license application, the city attorney shall within ten (10) days after the denial institute a suit for declaratory judgment in state court for review of the denial.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the recorder. (Ord. #99-14-0, March 1999)

9-408. <u>Standards for issuance of permit</u>. (1) To receive a permit as an employee, an applicant must meet the following standards:

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

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

(2) In addition to the requirements of subsection (1) above, the applicant must also satisfy the following distance requirements with respect to the situs of the proposed adult oriented establishment in order to receive a license to operate, to-wit:

(a) No more than one adult oriented business can be located within a five hundred (500) foot radius (determined by a straight line from the front entrance of the adult oriented business and not street distance) from any other adult oriented business.

(b) No adult oriented business can be located within a seven hundred and fifty (750) foot radius (determined by a straight line from the front entrance of the adult oriented business and not street distance) of the closest boundary line of any residential district within the city's zoning jurisdiction, and any church, school, day care center, public park, or playground within the city's zoning jurisdiction.

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

(4) Whenever an application for a permit as an employee is denied, the applicant may within ten (10) days of receipt of notification of denial request a hearing before the board, at which the applicant may present evidence bearing upon the question. This hearing shall be held by the board at the next regularly scheduled meeting of the board which occurs more than five (5) days after the request for a hearing has been filed. If the board denies the applicant a permit as an employee, the city attorney shall within ten (10) days after the denial institute suit for declaratory judgment in state court for review of the denial. (Ord. #99-14-0, March 1999)

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

(2) A permit fee of one hundred dollars ($100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (Ord. #99-14-0, March 1999)

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

(2) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Madisonville Police Department, or any person designated by the board. (Ord. #99-14-0, March 1999)

9-411. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the

date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the recorder. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the recorder. A copy of the application for renewal shall be distributed promptly by the recorder to the Madisonville Police Department and to the operator. The application for renewal shall be upon a form provided by the recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board.

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

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

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

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

(6) If the Madisonville Police Department is aware of any information bearing on the employee's qualification, that information shall be filed in writing with the recorder. (Ord. #99-14-0, March 1999)

9-412. <u>Revocation of license or permit</u>. (1) The recorder shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

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

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

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

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

(2) The recorder, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. Whenever a license or permit is revoked by the city manager, the party holding the license or permit may within ten days of the notice of revocation request a hearing before the board, at which time the party holding the license or permit may present evidence bearing upon the question. This hearing shall be held by the board at the next regularly-scheduled meeting of the board that occurs more than five (5) days after the request for a hearing is filed. If the board sustains

the revocation, the party holding the license or permit may within ten (10) days thereafter institute suit in state court.

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

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (Ord. #99-14-0, March 1999)

9-413. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. on weekdays or between the hours of 1:00 A.M. and 12:00 midnight on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Madisonville Police Department or such other persons as the board may designate. (Ord. #99-14-0, March 1999)

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

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

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

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

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment

provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Madisonville Police Department at all reasonable times.

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

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

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

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

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

> This Adult-Oriented Establishment is Regulated by Madisonville Municipal Code, Title 9, Chapter 4, Sections 9-401 through 9-416. Entertainers Are:
>
> (1) Not permitted to engage in any type of sexual conduct;
> (2) Not permitted to expose their sex organs;
> (3) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

(Ord. #99-14-0, March 1999)

9-415. <u>Prohibitions and unlawful sexual acts</u>. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or other contact stimulation of the genitals.

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

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

(4) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee and/or customer. (Ord. #99-14-0, March 1999)

9-416. Penalties and prosecution. (1) Any person, partnership, or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding five hundred dollars ($500.00) and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (Ord. #99-14-0, March 1999)

TITLE 10

ANIMAL CONTROL

CHAPTER
1. IN GENERAL.
2. DOGS.
3. LICENSING.

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.
10-108. Inspections of premises.

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.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1988 Code, § 3-101)

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep any other animal or fowl enumerated in the preceding section within one thousand (1,000) feet of any residence, place of business, or public street, without a permit from the city recorder. The city recorder 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. (1988 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. (1988 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 and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1988 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. (1988 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1988 Code, § 3-106)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the city council.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance. (1988 Code, § 3-107)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1988 Code, § 3-108)

CHAPTER 2

DOGS

SECTION

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

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1988 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1988 Code, § 3-202)

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

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1988 Code, § 3-203)

10-204. Vicious dogs. (1) Definition of terms:

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

(b) "Vicious dog" means:

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[1]State law reference
Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

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

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

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

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

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

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

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

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

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

(5) Dog fighting. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the

purpose of causing or encouraging the dog to attack human beings or domestic animals.

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

(7) Penalties. Whoever violates any provision of this section shall be guilty of a gross misdemeanor and may be punished by a fine of not less than ten dollars ($10.00) and not more than fifty dollars ($50.00). The conviction of any owner of three (3) or more offenses under this chapter for any dog during one (1) calendar year shall require a confiscation and forfeiture of that animal based on the danger and incorrigibility of owner and animal. Failure to abide by a lawful order of forfeiture is punishable by contempt. (1988 Code, § 3-204, as replaced by Ord. #13-207-0, Oct. 2013)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1988 Code, § 3-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1988 Code, § 3-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or any other properly designated officer or official and placed in a pound provided or designated by the city council. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within five (5) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar. (1988 Code, § 3-207)

10-208. Destruction of vicious or infected dogs running at large. When, because of its viciousness or apparent infection with rabies, a dog found

running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.[1] (1988 Code, § 3-208)

[1]State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

CHAPTER 3

LICENSING

SECTION

10-301. Requirement of license.
10-302. Written application.
10-303. Period of license.
10-304. Period of application.
10-305. Exceptions to fees.
10-306. Issuance of tag.
10-307. Dogs and cats to wear tags.
10-308. Records.
10-309. Licensing period.
10-310. Failure to obtain license.
10-311. Application fee.
10-312. Duplicate licenses.
10-313. Substitution of licenses prohibited.
10-314. Registration fee for kennels.
10-315. Penalties.

10-301. Requirement of license. Any person owning, keeping, harboring, or having custody of any dog or cat over four months of age within this municipality must obtain a license as herein provided. (Ord. #12-5A, Dec. 1994)

10-302. Written application. Written application for licenses, which shall include name and address of applicant, description of the dog or cat, the appropriate fee, and rabies certificate issued by a licensed veterinarian or antirabies clinic, shall be made to the licensing authority. (Ord. #12-5A, Dec. 1994)

10-303. Period of licenses. If not revoked, licenses for keeping of dogs and cats shall be for a period of one year. (Ord. #12-5A, Dec. 1994)

10-304. Period of application. Application for a license must be made within thirty (30) days after obtaining a dog or cat over four months of age; this requirement will not apply to a nonresident keeping a dog or cat within the municipality for not longer than sixty (60) days. (Ord. #12-5A, Dec. 1994)

10-305. Exceptions to fees. License fees shall not be required for certified seeing eye dogs, hearing dogs, governmental police dogs, or other certified dogs that are trained to assist the physically handicapped. (Ord. #12-5A, Dec. 1994)

10-306. Issuance of tag. Upon acceptance of the license application and fee, the licensing authority shall issue a durable tag or identification collar, stamped with an identifying number and the year of issuance. Tags should be designated so that they may be conveniently fastened or riveted to the animal's collar or harness. (Ord. #12-5A, Dec. 1994)

10-307. Dogs and cats to wear tags. Dogs and cats must wear identification tags or collars at all times when off the premises of the owners. (Ord. #12-5A, Dec. 1994)

10-308. Records. The licensing authority shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public at all times. (Ord. #12-5A, Dec. 1994)

10-309. Licensing period. The licensing period shall begin with the fiscal year and shall run for one year. A license application may be made thirty (30) days prior to, and up to sixty (60) days after, the start of the fiscal year. Persons applying for a license during the licensing year shall be required to pay fifty (50) percent of the fee stipulated in this section. (Ord. #12-5A, Dec. 1994)

10-310. Failure to obtain license. Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a fine as described in § 10-315. (Ord. #12-5A, Dec. 1994)

10-311. Application fee. A license shall be issued after payment of the following application fee:

unneutered male dog	$10.00	unneutered male cat	$10.00
unspayed female dog	$10.00	unspayed female cat	$10.00
neutered male dog	$ 5.00	neutered male cat	$ 5.00
spayed female dog	$ 5.00	spayed female cat	$ 5.00

(Ord. #12-5A, Dec. 1994, modified)

10-312. Duplicate licenses. A duplicate license may be obtained upon payment of a one dollar ($1.00) replacement fee. (Ord. #12-5A, Dec. 1994)

10-313. Substitution of licenses prohibited. No person may use any license for any dog or cat other than the animal for which it was issued. (Ord. #12-5A, Dec. 1994)

10-314. Registration fee for kennels. Persons operating a kennel where animals are bred for sale shall not be required to pay the registration fee required by § 10-311, but in lieu thereof shall pay, on or before the first day of

May of each year, or upon the opening of such kennel, a registration fee as a kennel operator. These fees shall be annual fees and shall be as follows:

(1) Less than 10 animals, $5.00.
(2) 10 but not more than 20 animals, $10.00.
(3) Over 20 animals, $15.00. (Ord. #12-5A, Dec. 1994)

10-315. Penalties. Any person violating any provision of title 10 of this code shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than $10.00 and not more than $50.00. If a violation continues, each day's violation shall be deemed a separate violation. (Ord. #12-5A, Dec. 1994, modified)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
5. FIREARMS, WEAPONS AND MISSILES.
6. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
7. MISCELLANEOUS.

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. Drinking alcoholic beverages in public, etc.
11-102. Minors in beer places.

11-101. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place. (1988 Code, § 10-202)

11-102. Minors in beer places. No person under the age of twenty one (21) shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1988 Code, § 10-203)

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[1]Municipal code references
Animals and fowls: title 10.
Housing and utilities: title 12.
Fireworks and explosives: title 7.
Traffic offenses: title 15.
Streets and sidewalks (non-traffic): title 16.

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.
State law reference
See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1988 Code, § 10-303)

CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-301. Disturbing the peace.
11-302. Anti-noise regulations.
11-303. Violation and penalty.

11-301. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1988 Code, § 10-501)

11-302. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of 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, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, tire squealing, 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 city 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 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(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 emitting noise for the purpose of attracting attention 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 city while engaged upon necessary public business.

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the 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. (1988 Code, § 10-502, modified)

11-303. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty of up to fifty dollars ($50) for each offense.

CHAPTER 4

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-401. Impersonating a government officer or employee.
11-402. False emergency alarms.
11-403. Off-street parking regulations.
11-404. Off-street loading and unloading space requirements.

11-401. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any 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 city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1988 Code, § 10-602)

11-402. 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 or ambulance assistance, or to aid or abet in the commission of such act. (1988 Code, § 10-603)

11-403. Off-street parking regulations. (1) Number of parking spaces required. In all districts, except the C-2 Central Business District, there shall be provided at such time any building or structure is erected, enlarged, or increased in capacity, off-street parking spaces. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below. For uses not specifically mentioned in this section, the off-street parking requirements shall be determined by the board of zoning appeals.

(a) Automobile/truck repair shop. One (1) space per two-hundred and fifty (250) square feet of gross floor area.

(b) Boarding and rooming houses. One (1) space per each one (1) room occupied by boarders or roomers.

(c) Churches. One (1) space per four (4) seats.

(d) Commercial/general retail/shopping centers. One (1) space per two-hundred and fifty (250) square feet of gross floor area.

(e) Dwellings, single and two-family. Two (2) spaces per dwelling unit.

(f) Dwellings, multi-family. One and one-half (1 1/2) spaces per dwelling unit.

(g) Funeral home/mortuaries. One (1) space per four (4) seats.

(h) Gasoline/mini-mart station. One (1) space at each gas pump plus one (1) space per two-hundred and fifty (250) square feet of gross floor area.

(i) Handicapped/accessible parking spaces. The number of handicapped/accessible parking spaces shall be provided as per ANSI A117.1, Standard for Accessible and Usable Buildings and Facilities [American National Standards Institute].

(j) Home occupations. Each home occupation shall be reviewed by the board of zoning appeals to determine the minimum number of parking spaces needed for the particular use.

(k) Hospitals/convalescent homes/nursing homes. One (1) space per three (3) patient beds.

(l) Hotels/motels/tourist courts. One (1) space per one (1) room or suite.

(m) Manufacturing or other industrial use. One (1) space for each three (3) persons employed or intended to be employed on a single shift, with a minimum of five (5) spaces.

(n) Offices - business, dental, general, government, medical, professional. One (1) space per three hundred (300) square feet of gross floor area.

(o) Private clubs or lodges. One (1) space per three (3) members based on design capacity of facility.

(p) Restaurants. One (1) space per one hundred (100) square feet of gross floor area.

(2) Minimum parking lot site design. To provide for orderly, safe, and systematic circulation within parking areas, off-street parking areas shall meet the following general requirements:

(a) Except for parcels of land devoted to one (1) and two (2) family uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.

(b) All parking lots shall be designed so as to eliminate surface water ponding and shall be drained without contributing to drainage problems on adjoining property.

(c) Parking spaces. Each parking space shall be a minimum of ten feet (10') in width and nineteen feet (19') in length.

Each handicapped/accessible parking space shall be a minimum of eight feet (8') in width and nineteen feet (19') in length. Such spaces shall have an adjacent access aisle, which shall be a minimum of five feet (5') in width and extend the full length of the parking spaces they serve. For every six (6) handicapped/accessible parking spaces, at least one (1) shall be a van-accessible parking space. Such van-accessible parking space shall have an adjacent access aisle of eight feet (8') in width.

Handicapped/accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance(s).

(d) Minimum width of aisle and back-up areas minimum width of parking lot aisles shall be as follows:

(i) Ninety degree (90^{o}) parking - twenty-five feet (25')

(ii) Sixty degree (60^{o}) parking - eighteen feet (18') (twenty-five feet (25') for two (2) way aisle)

(iii) Forty-five degree (45^{o}) degree parking - (thirteen feet (13') (twenty-five feet (25') for two (2) way aisle)

(iv) Thirty degree (30^{o}) degree parking - Twelve feet (12') (twenty-five feet (25') for two (2) way aisle)

Back-up or turn-around areas located at the end of dead-end parking aisles shall be a minimum of ten feet (10') in length.

(A) The storage lane for a drive-thru window shall be of adequate length to accommodate the storage of a minimum of eight (8) cars from the ordering station.

(B) Parking lots shall be set back a minimum of five feet (5') from all front, side, and rear property lines. Such areas shall be retained as permanent green space.

(C) A landscaped island a minimum of five feet (5') in width shall be provided at the ends of each parking row. Such islands shall extend the full length of the parking space(s).

(1) Combination of required parking spaces. The required parking space for any number of separate uses may be combined in one (1) lot, but the required space assigned to one (1) use may not be assigned to another use, except that the parking spaces required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

(2) Remote parking spaces. If the off-street parking space cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within four hundred feet (400' of the main entrance to such principal use, provided such land is in the same ownership as the principal use.

(3) Certification of minimum parking requirements. Each application for a building permit for single and two (2) family dwelling shall include information as to the location and dimensions of off-street parking. This information shall be in sufficient detail to enable the building inspector to determine whether or not the

requirements of this section are met. (as added by Ord. #15-229-O, Aug. 2018)

11-404. Off-street loading and unloading space requirements. To insure adequate service access for the loading and unloading of delivery vehicles, every building or structure constructed and used for industry or commercial shall provide space for the loading and unloading of such vehicles off the street or public alley. Such space shall be shown on the site plan. (as added by Ord. #15-229-O, Aug. 2018)

CHAPTER 5

FIREARMS, WEAPONS AND MISSILES

SECTION

11-501. Air rifles, etc.
11-502. Throwing missiles.
11-503. Discharge of firearms.

11-501. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1988 Code, § 10-701)

11-502. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1988 Code, § 10-702)

11-503. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the municipality. A violation of this section shall subject the offender to a penalty of up to fifty dollars ($50.00) for each offense. (1988 Code, § 10-703, modified)

CHAPTER 6

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-601. Trespassing.
11-602. Malicious mischief.
11-603. Interference with traffic.
11-604. Skateboarding, etc.

11-601. Trespassing. (1) On premises open to the public. (a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

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

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

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

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

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (1988 Code, § 10-801)

11-602. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1988 Code, § 10-802)

11-603. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1988 Code, § 10-803)

11-604. Skateboarding, etc. (1) No person shall use a skateboard, rollerblades or scooters upon any street, sidewalk, right-of-way, public property, or upon any city-owned, operated or controlled parking lots or other city-owned property and facilities, unless the property or area has been designated by the city and posted as a place permitting such activity. For purposes of this section, "skateboard" shall mean a wheeled, self-propelled board of any material designed to transport a rider in a standing position, which board is not otherwise secured to the rider's feet or shoes and to which board there is not affixed any device or mechanism to turn or control the wheels.

(2) No person shall at any time use any bench, table, garbage can or other property belonging to the city as a ramp or jump for skateboarding, rollerblades or scooters at any location within the city.

(3) No person shall use skateboards, rollerblades or scooters upon any private property where such property has been posted as prohibiting such activity.

CHAPTER 7

MISCELLANEOUS

SECTION

11-701. Abandoned refrigerators, etc.
11-702. Caves, wells, cisterns, etc.
11-703. Posting notices, etc.
11-704. Synthetic drugs prohibited.

11-701. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door or otherwise sealing the door in such a manner that it cannot be opened by any child. A violation of this section shall subject the offender to a penalty of up to fifty dollars ($50.00) for each offense.

11-702. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. A violation of this section shall subject the offender to a penalty of up to fifty dollars ($50.00) for each offense.

11-703. Posting notices, etc. No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. A violation of this section shall subject the offender to a penalty of up to fifty dollars ($50) for each offense. Each posting of such unauthorized notice shall constitute a separate offense.

11-704. Synthetic drugs prohibited. (1) Definitions:

(a) "Synthetic drug" as used in this section shall mean:

(i) Any substance, however denominated, and no matter the common street, brand or trade name of such substance, containing one (1) or more of the following chemicals:

(A) Salvia divinorum or salvinorum A: all parts of the plant presently classified botanically as salvia dininorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;

(B) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3(2methyloctan-2yl)-6a, 7, 10, 10a-

tetrahyrobenzo[c]chromen-1-o1 (some trade or other names being: HU-210);

(C) 1-Pentyl-3-(1-naphthoyl) indole (some trade or other names being: JWH-018);

(D) 1-Butyl-3-(1-naphthoyl) indole (some trade or other names being: JWH-073);

(E) 1-(3{trifluoromethylphenyl}) piperazine (some trade or other names being: TFMPP);

(F) 3, 4-methylenedioxypyrovalerone (MDPV), some trade or other names being: MDPK)

(G) 4-methylmethcathinone (Mephedrone);

(H) 3,4 -- methylenedioxymethcathinone (Methylone);

(I) 3, - methoxymethcathinone;

(J) 4 - methoxymethcathinone;

(K) 3 - fluoromethcathinone;

(L) 4 - fluoromethcathinone;

(i) Any other substance which mimics the effects of any controlled substance (to include, but not limited to, any opiates, opium derivatives, hallucinogenic substances, methamphetamine, MOMA, cocaine, PCP, marijuana, cannabis, cannabinoids, cannabicyclohexanol, and tetrahydrocannabinois), to include, but not limited to, "bath salts," "plant food," "incense," or "insect repellant," but excluding legitimate bath salts containing as the main ingredient the chemicals sodium chloride (sea salt) and/or magnesium sulfate (Epsom salt), or legitimate plant foods or insect repellant not intended for human consumption, or legitimate incense used as an odor elimination product.

(ii) Any similar substances to the above which when inhaled, or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or in any manner, changes, distorts, or disturbs the auditory, visual, or mental process, and the product or substance has no other apparent legitimate purpose for consumers.

(b) "Deliver" or "delivery" as used in this section shall mean the actual, constructive, or attempted transfer from one person to another of a synthetic drug as defined herein, with or without any consideration, and whether or not there is an agency relationship.

(c) "Manufacture" as used in this section shall mean the production, preparation, propagation, compounding, conversion, or processing of any synthetic drug as defined herein, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its

container, except that the term "manufacture" shall not include the preparation, compounding, packaging, or labeling of any synthetic drug as defined herein by:

(i) A practitioner as an incident to administering or dispensing any synthetic drug as defined herein in the course of professional practice; and

(ii) A practitioner, or an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

(d) "Administer" as used in this section shall mean the direct application of synthetic drug as defined herein, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) A practitioner or by the practitioner's authorized agent in the practitioner's presence; or

(ii) The patient or research subject at the direction and in the presence of the practitioner.

(e) "Agent" as used in this section shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. "Agent" does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(f) "Dispense" as used in this section shall mean to deliver a synthetic drug as defined herein to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(g) "Distribute" as used in this section shall mean to deliver other than by administering or dispensing a synthetic drug as defined herein.

(h) "Practitioner" as used in this section shall mean:

(i) A physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or

(ii) A pharmacy, hospital or other institution licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee.

(i) "Person" as used in this section shall mean any individual, corporation, partnership, trust, estate, association, organization, business, or any other legal entity.

(j) "Sell" or "sale" as used in this section shall mean a bargained-for or agreed upon offer and acceptance and an actual or constructive transfer or delivery of a synthetic drug as defined herein.

(k) "Production" as used in this section shall mean the planting, cultivating, tending, growing, or harvesting of a synthetic drug as defined in this section.

(l) "Possess" or "possession" as used in this section shall mean either actual possession or constructive possession.

(i) "Actual possession" as used in this section shall mean the exercise of direct physical control or dominion over an object.

(ii) "Constructive possession" as used in this section shall mean the power and intent to exercise control over an object although not in actual physical possession of an object. Possession may be sole or joint and may be inferred from all relevant facts surrounding the circumstances.

(2) Prohibited conduct. (a) It shall be unlawful for any person to use, possess, sell, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, or to attempt to use, possess, sell, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, within the city corporate limits.

(b) It shall be unlawful for any person to publicly display for sale any synthetic drug as defined herein, within the city corporate limits.

(3) Exception. An act otherwise prohibited and unlawful under this section shall not be unlawful if done by or under the direction of a "practitioner" as defined herein, provided such act is otherwise permitted by general law, or to otherwise prohibit substances regulated as controlled substances by the United States Food and Drug Administration or the Drug Enforcement Administration, and is not intended to and shall not be construed to supersede any other federal or state law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws in so far as lawfully permitted.

(4) Civil penalty. Any City of Madisonville sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citations so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if he cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in city court on a specific day and at a specific hour stated upon the citation; and the time so specified shall not be less that seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citations issued for a violation of any of the provisions of this section shall be tried in the city court. The city court

judge shall determine whether a defendant has committed a violation of this section. The city shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or "no contest" to the alleged violation, or is found guilty by the city court judge, the city court judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars ($50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any synthetic drug as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or "no contest" to the alleged violation, or who is found guilty by the city court judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administrative fee to the city in an amount to recoup the cost incurred by the city law enforcement agency for any chemical test conducted by or at the request of the law enforcement agency that is used to determine the chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law. (as added by Ord. #12-188-0, May 2012)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE AND ENERGY CONSERVATION CODE.
2. PLUMBING CODE.
3. FUEL GAS CODE.
4. RESIDENTIAL CODE.
5. MECHANICAL CODE.
6. AMUSEMENT DEVICE CODE.
7. SWIMMING POOL CODE.
8. UNSAFE BUILDING ABATEMENT CODE.
9. DELETED.
10. EXISTING BUILDINGS CODE.
11. AMERICAN NATIONAL STANDARD ACCESSIBLE AND USABLE BUILDING AND FACILITIES.
12. PERFORMANCE CODE.

CHAPTER 1

BUILDING CODE AND ENERGY CONSERVATION CODE[1]

SECTION

12-101. Building code and energy conservation code adopted.
12-102. Modifications.
12-103. Available in recorder's office.
12-104. Violations and penalty.

12-101. Building code and energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure (which is not covered by the International Residential Code that is

[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

herein adopted in chapter 4 of this title), the International Building Code,[1] 2012 edition, and the International Energy Conservation Code,[1] 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the building code and energy conservation code, with the following amendments; energy conservation code, section R-402.4.1.2 "testing" is optional. (1988 Code, § 4-101, as amended by Ord. #99-17-0, March 1999, modified, and amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-102. Modifications. (1) Definitions. Whenever in the International Building Code and/or the International Energy Conservation Code reference is made to the duties of a certain official named therein, that designated official of the city who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Building Code and International Energy Conservation Code are concerned. (1988 Code, § 4-102, as amended by Ord. #01-95, Jan. 1995, modified, and replaced by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy each of the building code and energy conservation code have been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-103, modified, as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code and energy conservation 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. (1988 Code, § 4-104, modified, as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

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

CHAPTER 2

PLUMBING CODE[1]

SECTION

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

12-201. Plumbing code adopted. Pursuant to. authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54 -506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code,[2] 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1988 Code, § 4-201, as amended by Ord. #99-17-0, March 1999, and Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-202. Modifications. (1) Definitions. Wherever the International Plumbing Code refers to the "Chief Appointing Authority," the "Administrative Authority," or the. "Governing Authority," it shall be deemed to be a reference to the governing body of the city. Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the governing body to administer and enforce the provisions of the international plumbing code. (1988 Code, § 4-202, as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-203. Available in recorder's office. Pursuant to the-requirements of Tennessee Code Annotated, § 6-54-502 one (1) copy of the plumbing code has

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[1]Municipal code references
Cross connections: title 18.
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

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

been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-203, modified, as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein 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. (1988 Code, § 4-204, modified as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

CHAPTER 3

FUEL GAS CODE[1]

SECTION

12-301. Fuel gas code adopted.
12-302. Modifications.
12-303. Available in recorder's office.
12-304. Violations and penalty.
12-305.--12-312. Deleted.

12-301. Fuel gas code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through -- 506, and for the purpose of establishing regulations for fuel gas systems and gas-fired appliances using prescriptive and performance-related provisions, the International Fuel Gas Code,[2] 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the fuel gas code. (1988 Code, § 4-301, as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-302. Modifications. (1) Definitions. Whenever in the fuel gas code reference is made to the duties of a certain official named therein, that designated official of the City of Madisonville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the fuel gas code are concerned. (1988 Code, § 4-302, modified, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fuel gas code has been placed on fi le in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-303, as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-304. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the fuel gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be

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[1]Municipal code reference
Gas system administration: title 19, chapter 2.

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

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. (1988 Code, § 4-304, as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-305.--12-312. Deleted. (1988 Code, §§ 4-305, 4-306, 4-307, 4-308, 4-309, 4-310, 4-311, as deleted by Ord. #17-251-O, March 2017)

CHAPTER 4

RESIDENTIAL CODE

SECTION

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

12-401. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated , §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions regulating the construction of one and two family dwellings, the International Residential Code,[1] 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code with the following amendments; Section R313.l regarding Automatic Sprinkler systems in Townhouses, add to the existing exception the following exception: "An automatic residential fire sprinkler system shall not be required if a 2 hour fire resistance rated wall exists between units and also does not contain plumbing, mechanical equipment, ducts or vents in the common wall." Delete section R313.2 "Automated Sprinkler systems in 1 & 2 Family Dwellings." (Ord. #99-17-0, March 1999, modified, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-402. Modifications. (1) Definitions. Whenever in the International Residential Code reference is made to the duties of a certain official named therein, that designated as official of the city who has duties corresponding to those of the named official in said by code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Residential Code are concerned. (as replaced by Ord. #09-144-0, May 2009, Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

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

12-404. 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. (as added by Ord. #17-251-O, March 2017, and replaced by Ord. #18-268-O, April 2018)

CHAPTER 5

MECHANICAL CODE[1]

SECTION

12-501. Mechanical code adopted.
12-502. Modifications.
12-503. Available in recorder's office.
12-504. Deleted.

12-501. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing minimum regulations for mechanical systems using prescriptive and performance-related provisions, the International Mechanical Code,[2] 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (Ord. #99-17-0, March 1999, modified, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017, and replaced by Ord. #18-268-O, April 2018)

12-502. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (as replaced by Ord. #17-251-O, March 2017, and by Ord. #18-268-O, April 2018)

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

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[1]State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

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

of the public. (as replaced by Ord. #17-251-O, March 2017, and by Ord. #18-268-O, April 2018)

12-504. Deleted. (as deleted by Ord. #17-251-O, March 2017)

CHAPTER 6

AMUSEMENT DEVICE CODE[1]

SECTION

12-601. Amusement device code adopted.
12-602. Modifications.
12-603. Available in recorder's office.
12-604. Violations.

12-601. Amusement device code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation, construction, alteration, repair, removal, operation and use of amusement rides and devices. The Standard Amusement Device Code,[2] 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., with appendix A-Accepted Engineering Practice Standards, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the amusement device code. (Ord. #99-17-0, March 1999, modified, as amended by Ord. #09-144-0, May 2009)

12-602. Modifications. Definitions. Whenever the amusement device code refers to the "Chief Administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" is named it shall, for the purposes of the amusement device code, mean such person as the city council has appointed or designated to administer and enforce the provisions of the amusement device code.

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

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

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

12-604. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified.

CHAPTER 7

SWIMMING POOL CODE[1]

SECTION

12-701. Swimming pool code adopted.
12-702. Modifications.
12-703. Available in recorder's office.
12-704. Violations.

12-701. Swimming pool code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of setting standards for the design, construction, or installation, alteration, repair or alterations of swimming pools, public or private and equipment related thereto. The Standard Swimming Pool Code,[2] 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the swimming pool code. (Ord. #99-17-0, March 1999, modified)

12-702. Modifications. Definitions. Whenever the swimming pool code refers to the "Administrative Authority," it shall be deemed to be a reference to the Building Official or his authorized representative. When the "Building Official" is named it shall, for the purposes of the swimming pool code, mean such person as the city council has appointed or designated to administer and enforce the provisions of the swimming pool code.

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

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

[2]Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

12-704. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool code as herein adopted by reference and modified.

CHAPTER 8

UNSAFE BUILDING ABATEMENT CODE

SECTION

12-801. Unsafe building abatement code adopted.
12-802. Modifications.
12-803. Available in recorder's office.
12-804. Violations.

12-801. Unsafe building abatement code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating buildings and structures to insure structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, within or without the city, the Standard Unsafe Building Abatement Code,[1] 1985 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the unsafe building abatement code. (Ord. #99-17-0, March 1999, modified)

12-802. Modifications. Definitions. Whenever the unsafe building abatement code refers to the "Chief Appointing Authority," or the "Chief Administrator" it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" is named it shall, for the purposes of the unsafe building abatement code, mean such person as the city council has appointed or designated to administer and enforce the provisions of the unsafe building abatement code.

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

12-804. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the unsafe building abatement code as herein adopted by reference and modified.

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[1]Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 9

DELETED

(this chapter was deleted by Ord. #17-251, March 2017)

CHAPTER 10

EXISTING BUILDINGS CODE[1]

SECTION

12-1001. Existing buildings code adopted.
12-1002. Modifications.
12-1003. Available in recorder's office.
12-1004. Violations.

12-1001. Existing buildings code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the International Existing Buildings Code,[2] 2006 edition, as prepared by the International Code Council, with A-Guidelines for the Seismic Retrofit of Existing Buildings, is adopted and the same is incorporated herein by reference, subject to modifications as hereinafter provided, and shall be known and referred to as the standard existing buildings code. (Ord. #99-17-0, March 1999, modified, as amended by Ord. #09-144-0, May 2009)

12-1002. Modifications. Whenever the standard existing buildings code refers to the "Chief Appointing Authority" it shall be deemed to be a reference to the board of mayor and aldermen of the city and whenever the same refers to the "Chief Administrator" it shall be deemed to be a reference to the board of mayor and aldermen of the city. Whenever the standard existing buildings code shall refer to the "Building Official" it shall mean such person designated by the city council to administer and enforce the provisions of the various standard codes of the city.

12-1003. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the standard existing buildings code shall be placed on file in the office of the recorder and the same shall be kept there for the use and inspection of the public.

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

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

12-1004. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the standard existing buildings code or any final order made pursuant thereto. Such violation is declared an offense against the city and for which punishment shall be a fine of not more than $50 for each such violation. Each day that a violation occurs shall be deemed a separate offense. The building official or his or her deputy or assistant is empowered to issue citations to answer in the municipal court of the city by any person, firm or corporation found to be in such violation.

CHAPTER 11

AMERICAN NATIONAL STANDARD ACCESSIBLE AND USABLE BUILDING AND FACILITIES

SECTION

12-1101. American national standard accessible and usable building and facilities adopted.
12-1102. Available in recorder's office.
12-1103. Violations.

12-1101. American national standard accessible and usable building and facilities adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing minimum regulations for accessibility in existing and newly-constructed buildings, the American National Standard, Accessible and Usable Buildings and Facilities ICC/ASSI Al 17.1,[1] 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the accessibility code. (Ord. #99-17-0, March 1999, modified, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-1102. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the accessibility code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

12-1103. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the accessibility code as herein adopted by reference and modified. (as replaced by Ord. #17-251-O, March 2017, and Ord. #18-268-O, April 2018)

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

CHAPTER 12

PERFORMANCE CODE

SECTION

12-1201. Performance code adopted.
12-1202. Modifications.
12-1203. Available in recorder's office.
12-1204. Violations and penalties.

12-1201. Performance code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, the International Performance Code, 2006 edition, as prepared by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the performance code. (as added by Ord. #09-144-0, May 2006)

12-1202. Modifications. Whenever in the adopted codes reference is made to the duties of a certain official named therein, that designated official of the City of Madisonville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provision of each code adopted herein. (as added by Ord. #09-144-0, May 2009)

12-1203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of each code adopted by reference herein has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #09-144-0, May 2009)

12-1204. Violations and penalties. It shall be unlawful for any person to violate or fail to comply with any provision of the codes adopted herein by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars ($50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #09-144-0, May 2009)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER
1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.

CHAPTER 1

MISCELLANEOUS

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

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1988 Code, § 8-101)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1988 Code, § 8-102)

13-103. Weeds, trees, vegetation, trash, etc. (1) It shall be unlawful for any person owning, leasing, occupying, or having control of property in the city to permit or suffer weeds, trees, or other vegetation to grow and/or trash, rubbish and refuse to accumulate on such property to such an extent that a nuisance is created and injurious to the health and welfare of the inhabitants

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.

of the city. Weeds which have obtained a height of twelve (12) inches or more shall be presumed to be detrimental to the public health and a public nuisance, which presumption may be rebutted by competent evidence.

(2) In complying with the provisions of this section it shall be unlawful for any person owning, leasing, occupying or having control of property in the city to rake up, cut up or pile up weeds, grass, brush, vegetation, dead or broken tree limbs, dead trees or rubbish into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct the flow of water drainage. (1988 Code, § 8-103)

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, 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, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

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

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

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

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

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

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

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam sewage, or other materials), the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Monroe County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

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

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3)

above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of commissioners under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of the judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code or ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1988 Code, § 8-104, modified, as replaced by Ord. #08-130-0, April 2008)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city recorder and dispose of such animal in such manner as the city recorder or city foreman shall direct. (1988 Code, § 8-105, modified)

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. (1988 Code, § 8-106)

13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty of up to fifty dollars ($50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

SLUM CLEARANCE[1]

SECTION

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

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city and, therefore, ordains as follows. (1988 Code, § 4-401)

13-202. Definitions. (1) "Governing body" shall mean the city council charged with governing the city.

(2) "Municipality" shall mean the City of Madisonville, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

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

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

(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 city or

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[1]State law reference
Tennessee Code Annotated, title 13, chapter 21.

state relating to health, fire, building regulations, or other activities concerning structures in the city.

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

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1988 Code, § 4-402)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (1988 Code, § 4-403)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (1988 Code, § 4-404)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

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

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (1988 Code, § 4-405)

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (1988 Code, § 4-406)

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (1988 Code, § 4-407)

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such costs were incurred. 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 Monroe County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Madisonville to define and declare nuisances and to cause their removal or abatement, by summary proceedings or as otherwise may be provided by the charter or ordinances of the city. (1988 Code, § 4-408)

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

ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (1988 Code, § 4-409)

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Monroe County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1988 Code, § 4-410)

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a 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 bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (1988 Code, § 4-411)

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

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1988 Code, § 4-12)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (1988 Code, § 4-413)

CHAPTER 3

JUNKYARDS[1]

SECTION

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

13-301. 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.

(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 city. (1988 Code, § 8-501)

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (1988 Code, § 8-502)

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[1]Municipal code reference
Refuse and trash disposal: title 17.

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

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

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

(3) Architectural barriers. The utilization of:

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

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

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

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (1988 Code, § 8-503)

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

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

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

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

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (1988 Code, § 8-504)

13-305. 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 and shall be replaced as required by the city.

If not replaced within sixty (60) days the city shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in

the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the city. (1988 Code, § 8-505)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (1988 Code, § 8-506)

13-307. Non-conforming junkyards. Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming." Such junkyards shall 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 city.

(5) The junkyard may not be extended or enlarged. (1988 Code, § 8-507)

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

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

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

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

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

(5) A permit is valid only while held by the permittee and for the location for which it is issued. (1988 Code, § 8-508)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER
1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOMES AND TRAILERS.
4. FLOOD PLAIN ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION
14-101. Creation and membership.
14-102. Organization, rules, staff, and finances.
14-103. Powers and duties.

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 nine (9) members; two (2) of these shall be the mayor and another member of the city council selected by the city council; the other seven (7) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. The terms of the seven (7) members appointed by the mayor shall be for terms of one (1), two (2), three (3), four (4), five (5), six (6) and seven (7) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the city council shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (1988 Code, § 11-101)

14-102. Organization, rules, staff, and finances. The municipal planning commission shall elect its chairman from amongst its appointment members. The term of chairman shall be one year with eligibility for reelection. The commission shall adopt rules for the transactions, findings, and determinations, which record shall be a public record. The commission may appoint such employees and staff as it may deem necessary for its work and may contract with city planners and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be without the amounts appropriated for the purpose by the city council. (1988 Code, § 11-102)

14-103. Powers and duties. From and after the time when the municipal planning commission shall have organized and selected its officers together with the adoption of its rules of procedure, then said commission shall have all the powers, duties and responsibilities as set forth in the Tennessee Code Annotated, §§ 13-4-101 through 13-4-105; §§ 13-4-201 through 13-4-203 and §§ 13-4-301 through 13-4-309, or other sections relating to the duties and powers of municipal planning commissions adopted subsequent thereto. (1988 Code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the City of Madisonville shall be governed by ordinance adopted Feb. 1, 1973, titled "Zoning Ordinance, Madisonville, Tennessee," and any amendments thereto.[1]

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[1]The zoning ordinance, 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

MOBILE HOMES AND TRAILERS

SECTION

14-301. Definitions.
14-302. Permit for mobile home park.
14-303. Inspections by city building inspector.
14-304. Length of occupancy.
14-305. Location and planning.
14-306. Minimum size of mobile home park.
14-307. Minimum number of spaces.
14-308. Minimum space requirements for mobile homes.
14-309. Water supply.
14-310. Sewage disposal.
14-311. Refuse.
14-312. Electricity.
14-313. Streets.
14-314. Parking spaces.
14-315. Buffer strip.
14-316. Regulating travel trailers and travel trailer parks.
14-317. Permits.
14-318. Fees for permits.
14-319. Application for permit.
14-320. Enforcement.
14-321. Board of appeals.
14-322. Appeals from board of appeals.
14-323. Violation and penalty.

14-301. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.

(1) "Buffer strip." All evergreen buffers shall consist of a greenbelt planted strip not less than ten (10) feet in width. Such a green belt shall be composed of evergreen trees and shrubs or hedges planted in rows which will eventually grow to a height of not less than ten (10) feet.

(2) "Mobile home (trailer)." A detached single family dwelling unit with the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities and the like.

(3) "Mobile home park." The term mobile home park shall mean any plot of ground within the City of Madisonville on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located.

(4) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(5) "Health officer." The director of the city, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(6) "Permit (license)." A permit is required for mobile home parks, single mobile homes and travel trailer parks. Fees charged under the license requirement are for inspection and the administration of this chapter.

(7) "Travel trailer." A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing or a unit which:

(a) Can operate independent of connections to external sewer, water and electrical systems.

(b) Contains water storage facilities and may contain a lavatory, kitchen sink and/or bath facilities; and/or

(c) Is identified by the manufacturer as a travel trailer.

(8) "Travel trailer park." The term travel trailer park shall mean any plot of ground within the City of Madisonville on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located. (1988 Code, § 8-601)

14-302. <u>Permit for mobile home park</u>. (1) No place or site within the city shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the city building inspector in the names of such person or persons for the specific mobile home park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

(2) <u>Existing mobile home parks</u>. Mobile home parks in existence as of the effective date of this ordinance shall be required to obtain a mobile home park permit. Pre-existing mobile home parks which cannot comply with the requirements regarding mobile home parks shall be considered as a non-conforming use; provided, however, if at any time the ownership of said park shall change, said new owner shall be given a period not to exceed thirty (30) days in which to comply with current mobile home parks regulations in all respects. Failure to do so shall render him ineligible for a mobile home park permit at its then present location. However, the death of a husband or wife

who owns a mobile home park as tenants by the entirety, and thereby leaving the entire ownership of the mobile home park in the surviving husband or wife, shall not be considered to be such a change of ownership of the mobile home park as to bring the owner within the purview and restrictive provisions of this paragraph. Also, the divorce of a husband or wife and if connection therewith the awarding or conveying of a mobile home park to either and husband or wife, shall not be considered to be such a change of ownership of the mobile home park as to bring the husband or wife owner within the purview and restrictive provisions of this paragraph. (1988 Code, § 8-602)

14-303. Inspections by city building inspector. The city building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The city building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter. (1988 Code, § 8-602)

14-304. Length of occupancy. No mobile home space shall be rented in any mobile home park except for periods of thirty (30) days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the Mobile Home Manufacturing Association, Mobile Home Standards for Plumbing, Heating and Electrical Systems or any state administered code insuring equal or better plumbing, heating or electrical installations. (1988 Code, § 8-602)

14-305. Location and planning. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the Madisonville Municipal Planning Commission. (1988 Code, § 8-602)

14-306. Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than two (2) acres. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management. (1988 Code, § 8-602)

14-307. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is six (6). (1988 Code, § 8-602)

14-308. Minimum space requirements for mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen

(15) feet of open space between mobile homes or any attachment such as a garage or porch, and at least fifteen (15) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and twenty-five (25) feet from the right-of-way of any public street or highway. If the construction of additional rooms or covered area is to be allowed beside the mobile homes, the mobile home spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space. Excluding the buffer strip and parking space, each mobile home space shall contain:

(1) Minimum lot area of two thousand two hundred and fifty (2,250) square feet;

(2) Minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet;

(3) Minimum depth with side or street parking equal to the length of mobile home plus twenty (20) feet; and

(4) A minimum width of at least thirty (30) feet and a minimum depth of at least seventy-five feet. (1988 Code, § 8-602)

14-309. Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after written approval of plans and specifications has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the mobile home park operator to provide such treatment as is deemed necessary by the health officer to maintain a safe, potable water supply. Water shall be furnished at the minimum capacity of two hundred and fifty (250) gallons per day per mobile home space. An individual water service connection shall be provided for each mobile home space. (1988 Code, § 8-602)

14-310. Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Each mobile home space shall be equipped with at least a four (4) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line, except where sewer and water lines are closer together the water line pipe shall be laid and placed within another pipe as required by other ordinances and/or regulations of the City of Madisonville or the Madisonville Utilities Board. Every effort

shall be made to dispose of the sewage through a public sewerage system. In lieu of this, individual septic tanks and sub-surface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than five hundred (500) gallons working capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate shall be determined as outlined by the Tennessee Department of Environment and Conservation. No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used. (1988 Code, § 8-602)

14-311. Refuse. The storage, collection and disposal of refuse, in the park shall be stored in fly proof, water tight and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week. (1988 Code, § 8-602)

14-312. Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code and Tennessee Department of Insurance and Banking Regulations No. 15, entitled "Regulations Relating to Electrical Installations in the State of Tennessee", and shall satisfy all requirements of the local electric service organization. (1988 Code, § 8-602)

14-313. Streets. Minimum widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	12 ft.
One-way, with parallel parking on one side only	20 ft.
One-way, with parallel parking on both sides	28 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

All streets, roads and alleys shall be graded by the developer so that street surfaces may be constructed to meet the required standards. Deviation from these standards due to topographical conditions will be allowed only with special approval of the planning commission. Before grading is begun, the entire roadway area shall be cleared of all stumps, roots, brush, and other objectionable materials and all trees not intended for preservation. All tree stumps, boulders, and other obstructions shall be removed to a depth of two (2) feet below the subgrade. Rock, when encountered, shall be scarified to a depth

of twelve (12) inches below the subgrade. All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed.

An adequate drainage system, including necessary open ditches, pipes, culverts, intersectioned drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow, and shall be of sufficient length to permit full width roadway and the necessary slopes.

After preparation of the subgrade, the roadbed shall be surfaced with crushed rock, stone or gravel. The size of the crushed rock or stone shall be that generally known as "crushed run stone" from two and one-half (2 ½) inches down, including dust. Spreading of the stone shall be done uniformly over the area by means of appropriate spreading devices. After spreading, the stone shall be rolled until thoroughly compacted. The compacted thickness, of the stone road way shall be no less than six (6) inches.

Between April and November 15 at a temperature of 35 degrees or above, tar grade RT-2 or RT-1 inclusive, or MC-1 or MC-2, shall be applied at the rate of four-tenths (4/10) gallon per square yard of base surface. The stone chips graded from one-half (½) inch down to number eight (8) with no dust shall be applied at the rate of ten (10) to fifteen (15) pounds per square yard, rolled until thoroughly compacted and left to cure for such time as the city street commissioner or the county road superintendent may direct but not less than seven (7) days.

A wearing surface may not be required by the planning commission. However, if the planning commission elects to require a wearing surface, it shall consist of one (1), two (2) inch thick compacted thickness coarse asphaltic concrete (plant mixed) surface treatment. (1988 Code, § 8-602)

14-314. Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two (2) car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home spaces. Where practical, one (1) car space shall be located on each lot or located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park. (1988 Code, § 8-602)

14-315. Buffer strip. An evergreen buffer strip may be required along all boundaries of the mobile home park. (See definition.) (1988 Code, § 8-602)

14-316. Regulating travel trailers and travel trailer parks. (1) It shall be unlawful for any travel trailer to be occupied or services outside of any properly designated travel trailer park. This provision shall not apply to the storage of travel trailer provided said trailer unit is neither temporarily or permanently occupied as a dwelling unit while within the city limits.

(2) Permit for travel trailer park. No place or site within said city shall be established or maintained by any person, group of persons, or corporation as a travel park unless he holds a valid permit issued by the city building inspector in the name of such person or persons for the specific travel trailer park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

(3) Inspections by city building inspector and county health officer. The city building inspector and/or county health officer is hereby authorized and directed to make inspections to determine the condition of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and of the general public. The building inspector or county health officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(4) Length of occupancy. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than thirty (30) days.

(5) Minimum size of travel trailer space. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.

(6) Site planning improvements shall conform to the standards established in Regulations VI-XX of the State Regulations Governing the Construction, Operation and Maintenance of Organized Camps in Tennessee, as provided in Chapter 65, Public Acts of 1965. (1988 Code, § 8-603)

14-317. Permits. The following requirement for permits shall apply to any mobile home park, individual mobile home, and travel trailer park within the corporate limits.

(1) Mobile home parks. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits of said city, any mobile home park unless such person or persons shall first obtain a permit therefor.

(2) Individual mobile homes. It shall be unlawful for any person to maintain an individual mobile home as a dwelling unless a permit has been obtained therefor. It shall be the responsibility of the owner of the mobile home to secure the permit.

(3) Travel trailer park. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits of said city, any travel trailer park unless such person or persons shall first obtain a permit therefor. (1988 Code, § 8-604)

14-318. Fees for permits. An annual permit fee shall be required for mobile home parks, individual mobile homes and travel trailer parks.

(1) Mobile home parks. The annual permit fee for mobile home parks shall be fifty dollars ($50.00).

(2) Travel trailer parks. The annual permit fee for each travel trailer park shall be ten dollars ($10.00) for travel trailer space. (1988 Code, § 8-605)

14-319. Application for permit. (1) Mobile home parks. Applications for a mobile home park shall be filed with and issued by the city building inspector subject to the planning commission's approval of the mobile home park plan. Applications shall be in writing and signed by the applicant and shall be accompanied with an approved plan and location of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

(a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;

(b) Name and address of owner of record;

(c) Proposed name of park;

(d) North point and graphic scale and date;

(e) Vicinity map showing location and acreage of mobile home park;

(f) Exact boundary lines of the tract by bearing and distance;

(g) Names of owners of record of immediately adjacent land;

(h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;

(i) Proposed design including streets, proposed street names, buffer strip plan, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, other structures, and any land to be used for purposes other than mobile home spaces;

(j) Provisions for water supply, sewerage and drainage;

(k) Such information as may be required by the city to enable it to determine if the proposed park will comply with legal requirements; and

(l) The applications and all accompanying plans and specifications shall be filed in triplicate.

(2) Certificates that shall be required are:

(a) Owner's certification;

(b) Planning commission's approval signed by the secretary; and

(c) Any other certificate deemed necessary by the planning commission.

(3) Travel trailer parks. Applications for travel trailer parks shall meet the same requirements as contained in § 14-319(1). (1988 Code, § 8-606)

14-320. Enforcement. It shall be the duty of the county health officer and city building inspector to enforce provisions of this chapter. Where septic tanks are to be used, the planning commission shall require certificates of approval by the county health officer. (1988 Code, § 8-607)

14-321. Board of appeals. The Madisonville Planning Commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, may appeal for and receive a hearing by the Madisonville Planning Commission (advised by the city attorney) for an interpretation of pertinent chapter provisions.

In exercising this power of interpretation of this chapter, the Madisonville Planning Commission, with advice from the city attorney, may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector. (1988 Code, § 8-608)

14-322. Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the Madisonville Planning Commission may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee. (1988 Code, § 8-608)

14-323. Violation and penalty. Any person or corporation who violates the provisions of this chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the city building inspector or county health officer after receipt of thirty (30) days written notice of such requirements, shall be punishable under the general penalty clause of this code. (1988 Code, § 8-609)

CHAPTER 4

FLOOD PLAIN ZONING ORDINANCE

SECTION

14-401. Statutory authorization, findings of fact, purpose and objectives.
14-402. Definitions.
14-403. General provisions.
14-404. Administration.
14-405. Provisions for flood hazard reduction.
14-406. Variance procedures.
14-407. Legal status provisions.

14-401. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Madisonville, Tennessee, Mayor and Board of Aldermen do ordain as follows:

(2) Findings of fact. (a) The City of Madisonville, Tennessee, Mayor and its Legislative Body wishes to establish eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (C.F.R.), ch. 1, section 60.3.

(b) Areas of the City of Madisonville, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in flood plains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood proofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas to minimize blight in flood areas;

(g) To ensure that potential home buyers are notified that property is in a flood prone area;

(h) To establish eligibility for participation in the NFIP. (as added by Ord. #09-152-0, Oct. 2009)

14-402. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of flood waters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officers' interpretation of any provision of this ordinance or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor sub-grade (below ground level) on all sides.

(9) "Building" see "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood water, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer

amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not covered under the program.

(14) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial flood plain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first flood plain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures" see "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Flood plain" or "flood prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "Flood plain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

(32) "Flood way" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood

heights greater than the height calculated for a selected size flood and flood way conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Madisonville, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(44) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the flood plain.

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial flood plain management ordinance and includes any subsequent improvements to such structure.

(46) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial flood plain management ordinance and includes any subsequent improvements to such structure.

(47) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the flood plain.

(48) "100-year flood" see "base flood."

(49) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory flood way" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" is the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mud flow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency." The Tennessee Department of Economic and Community Development Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure," for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(60) (a) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(i) The appraised value of the structure prior to the start of the initial improvement; or

(ii) In the case of substantial damage, the value of the structure prior to the damage occurring.

(b) The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this ordinance.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various

magnitudes and frequencies in the flood plains of riverine areas. (as added by Ord. #09-152-0, Oct. 2009)

14-403. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Madisonville, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Madisonville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 471123C0142D, 471123C0145D, 471123C0161D, 471123C0163D, 471123C0165D, 471123C0260D, and 471123C0280D (effective date of February 3, 2010), along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Madisonville, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance,

shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Madisonville, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #09-152-0, Oct. 2009)

14-404. Administration. (1) Designation of ordinance administrator. The Madisonville Codes Enforcement Official, AKA Madisonville Building Official, is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood proofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA flood proofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential flood proofed building will meet the flood proofing criteria in § 14-405(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When flood proofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When flood proofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or flood proofing level upon the completion of the lowest floor or flood proofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development Local Planning Assistance Office prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-404(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and

substantially improved buildings have been flood proofed, in accordance with § 14-404(2)

(h) When flood proofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-404(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When base flood elevation data and flood way data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and flood way data available from federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Madisonville, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #09-152-0, Oct. 2009)

14-405. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-405(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-405(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls

shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated or flood proofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section.

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or flood proofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be flood proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-404(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding shall be designed to preclude finished living space and designed to allow

for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of flood waters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of flood waters and all such partitions shall comply with the provisions of § 14-405(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-402).

(iii) Any manufactured home, which has incurred substantial damage as the result of a flood, must meet the standards of § 14-405(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-405(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with flood ways designated. Located within the special flood hazard areas established in § 14-403(2) are areas designated as flood ways. A flood way may be an extremely hazardous area due to the velocity of flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory flood way. Development may be

permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or flood way widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Madisonville, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without flood ways designated. Located within the special flood hazard areas established in § 14-403(2), where streams exist with base flood data provided but where no flood ways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(5) Standards for streams without established base flood elevations and flood ways (A Zones). Located within the special flood hazard areas established in § 14-403(2), where streams exist, but no base flood data has been provided and where a flood way has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and flood way data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-405(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres,

whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or flood proofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-404(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-405(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Madisonville, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2). Within approximate A Zones, require that those subsections of § 14-405(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-403(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1 – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-405(1) and (2), apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate

automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-405(2).

(b) All new construction and substantial improvements of non-residential buildings may be flood proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood proofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be flood proofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-404(2).

(c) Adequate drainage paths shall be provided around slopes to guide flood waters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-403(2) are areas of the 100-year flood plain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-404 and 14-405 shall apply.

(8) Standards for unmapped streams. Located within the City of Madisonville, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and flood way data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-404 and 14-405. (as added by Ord. #09-152-0, Oct. 2009)

14-406. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The City of Madisonville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of twenty-five dollars ($25.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than sixty (60) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Madisonville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation

will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated flood way if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-406(1).

(b) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship;

(iii) Or a determination that the granting of a variance will not result in increased flood heights;

(iv) Additional threats to public safety;

(v) Extraordinary public expense;

(vi) Create nuisance;

(vii) Cause fraud on or victimization of the public;

(viii) Or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #09-152-0, Oct. 2009)

14-407. Legal status provisions. (1) Conflict with other ordinances. This ordinance shall supersede the previous flood damage prevention ordinance. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Madisonville, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

(3) Effective date. The ordinance comprising this chapter shall become effective immediately after its passage, in accordance with the Charter of the City of Madisonville, Tennessee, and the public welfare demanding it. Approved and adopted by the City of Madisonville, Tennessee, and the public welfare demanding it. (as added by Ord. #09-152-0, Oct. 2009)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS[2]

SECTION

15-101. Adoption of state traffic statutes.
15-102. Motor vehicle requirements.
15-103. Driving on streets closed for repairs, etc.
15-104. [Repealed.]
15-105. One-way streets.
15-106. Unlaned streets.
15-107. Laned streets.
15-108. Yellow lines.
15-109. Miscellaneous traffic-control signs, etc.
15-110. General requirements for traffic-control signs, etc.

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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

[2]State law references
Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

15-111. Unauthorized traffic-control signs, etc.
15-112. Presumption with respect to traffic-control signs, etc.
15-113. School safety patrols.
15-114. Driving through funerals or other processions.
15-115. Clinging to vehicles in motion.
15-116. Riding on outside of vehicles.
15-117. Backing vehicles.
15-118. Projections from the rear of vehicles.
15-119. Causing unnecessary noise.
15-120. Vehicles and operators to be licensed.
15-121. Passing.
15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
15-123. Operation of vehicles by minors.
15-124. [Repealed.]
15-125. [Repealed.]
15-126. Trespassing by vehicle.
15-127. [Repealed.]

15-101. Adoption of state traffic statutes. By the authority granted under the Tennessee Code Annotated, § 16-18-302, the City of Madisonville 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 §§ 55-8-113 through 55-8-180. Additionally, the City of Madisonville 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. (Ord. #99-37-0, Nov. 1999, modified, as replaced by Ord. #07-115-0, June 2007)

15-102. 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. (1988 Code, § 9-101)

15-103. 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. (1988 Code, § 9-102)

15-104. [Repealed.] (1988 Code, § 9-104, as repealed by Ord. #07-115-0, June 2007)

15-105. 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. (1988 Code, § 9-105)

15-106. 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. (1988 Code, § 9-106)

15-107. 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. (1988 Code, § 9-107)

15-108. 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. (1988 Code, § 9-108)

15-109. 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.

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[1]Municipal code references

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

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. (1988 Code, § 9-109)

15-110. General requirements for traffic-control signs, etc. Pursuant to Tennessee Code Annotated, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways,[1] and shall be uniform as to type and location throughout the city. (1988 Code, § 9-110, modified)

15-111. 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. (1988 Code, § 9-111)

15-112. 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. (1988 Code, § 9-112)

15-113. 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. (1988 Code, § 9-113)

15-114. 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. (1988 Code, § 9-114)

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[1]For the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, et seq.

15-115. 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. (1988 Code, § 9-115)

15-116. 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. (1988 Code, § 9-116)

15-117. 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. (1988 Code, § 9-117)

15-118. 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 (½) hour after sunset and one-half (½) 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 (200) feet from the rear of such vehicle. (1988 Code, § 9-118)

15-119. 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. (1988 Code, § 9-119)

15-120. 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." (1988 Code, § 9-120)

15-121. 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. (1988 Code, § 9-121)

15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle, or motorized bicycle shall or motorized bicycle ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

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

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

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

(7) Each driver of a motorcycle, motor driven cycle or motorized bicycle 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.

(8) Every motorcycle, motor driven cycle or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section. (1988 Code, § 9-122)

15-123. Operation of vehicles by minors. (1) Definitions.

(a) "Minor" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a minor who has been emancipated by marriage or otherwise.

(b) "Adult" shall mean any person eighteen years of age or older.

(c) "Custody" means the control of the actual, physical care of the minor, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the minor. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the minor's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Juvenile" shall mean any person defined as such in Tennessee Code Annotated, § 37-1-101 et seq.

(e) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(f) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult

or a minor, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a minor, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of Madisonville unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a minor to permit any such minor to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city. (1988 Code, § 9-123)

15-124. [Repealed.] (as repealed by Ord. #07-115-0, June 2007)

15-125. [Repealed.] (as repealed by Ord. #07-115-0, June 2007)

15-126. Trespassing by vehicle. (1) Any person who drives, parks, stands, or otherwise operates a motor vehicle on, through or within a parking area, driving area or roadway located on privately owned property which is provided for use by patrons, customers or employees of business establishments upon such property, or adjoining property or for use otherwise in connection with activities conducted upon such property, or adjoining property, after such person has been requested or ordered to leave the property or to cease doing any of the foregoing actions is guilty of a civil offense. A request or order under this section may be given by a law enforcement officer or by the owner, lessee, or other person having the right to the use or control of the property, or any authorized agent or representative thereof, including, but not limited to, private security guards hired to patrol the property.

(2) As used in this section, "motor vehicle" includes an automobile, truck, van, bus, recreational vehicle, camper, motorcycle, or, motorbike, moped, go-cart, all terrain vehicle, dune buggy, and any other vehicle propelled by motor.

(3) A property owner, lessee or other person having the right to the use or control of property may post signs or other notices upon a parking area, driving area or roadway giving notice of this section and warning that violators will be prosecuted; provided, however, that the posting of signs or notices shall not be a requirement to prosecution under this section and failure to post signs or notices shall not be a defense to prosecution hereunder. (Ord. #____, Jan. 1996)

15-127. [Repealed.] (as replaced by Ord. #02-25-0, March 2002, and repealed by Ord. #07-115-0, June 2007)

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. (1988 Code, § 9-201)

15-202. Operation of authorized emergency vehicles.[1] (4) 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 500 feet 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.

(5) 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.

(6) 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.

(7) 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. (1988 Code, § 9-202)

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[1]Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1988 Code, § 9-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1988 Code, § 9-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.
15-302. At intersections.
15-303. In school zones.

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-five (35) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1988 Code, § 9-301, modified)

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. (1988 Code, § 9-302)

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

In school zones where the city council has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1988 Code, § 9-303, modified)

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] (1988 Code, § 9-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1988 Code, § 9-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1988 Code, § 9-403)

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. (1988 Code, § 9-404)

15-405. U-turns. U-turns are prohibited. (1988 Code, § 9-405)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. [Repealed.]
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. [Repealed.] (1988 Code, § 9-501, as repealed by Ord. #07-115-0, June 2007)

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. (1988 Code, § 9-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1988 Code, § 9-503)

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet 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. (1988 Code, § 9-504)

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. (1988 Code, § 9-505)

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. (1988 Code, § 9-506)

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. (1988 Code, § 9-507)

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. (1988 Code, § 9-508)

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. (1988 Code, § 9-509)

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. (1988 Code, § 9-510)

[1]State 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.
15-613. Handicapped parking.

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

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches 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 (18) inches 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. (1988 Code, § 9-601)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1988 Code, § 9-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one 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. (1988 Code, § 9-603)

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

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.

(2) In front of a public or private driveway.

(3) Within an intersection.

(4) Within fifteen (15) feet of a fire hydrant.

(5) Within a pedestrian crosswalk.

(6) Within twenty feet (20') of a crosswalk at an intersection.

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.

(8) Within fifty (50) feet of the nearest rail of a railroad crossing.

(9) Within twenty (20) feet 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 (75) feet of such entrance when properly signposted.

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is

(a) Physically handicapped, or

(b) Parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, § 55-8-160(c). (1988 Code, § 9-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1988 Code, § 9-605)

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 city council, 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. (1988 Code, § 9-606)

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. (1988 Code, § 9-607)

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. (1988 Code, § 9-608)

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. (1988 Code, § 9-609)

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. (1988 Code, § 9-610)

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. (1988 Code, § 9-611)

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. (1988 Code, § 9-612)

15-613. <u>Handicapped parking</u>. (1) (a) Any person, except a person who meets the requirements for the issuance of a distinguishing disabled placard or license plate, or a disabled veteran's license plate, who parks in any parking space designated with the wheelchair disabled sign commits a civil offense, punishable by a penalty of fifty dollars ($50).

(b) In addition to the penalty imposed pursuant to subdivision (1)(a), a vehicle which does not display a disabled license plate or placard, and which is parked in any parking space designated with the wheelchair disabled sign, is subject to being towed. When a vehicle has been towed or removed pursuant to this section, it shall be released to its owner, or person in lawful possession, upon demand; provided, that such person making demand for return pays all reasonable towing and storage charges and that such demand is made during the operating hours of the towing company.

(c) It is also a violation of this section for any person to park a motor vehicle so that a portion of such vehicle encroaches into a disabled parking space in a manner which restricts, or reasonably could restrict, a person confined to a wheelchair from exiting or entering a motor vehicle properly parked within such disabled parking space.

(d) Signs designating disabled parking shall indicate that unauthorized or improperly parked vehicles may be towed and the driver fined fifty dollars ($50), and shall also provide the name and telephone number of the towing company or the name and telephone number of the property owner, lessee or agent in control of the property.

(2) The provisions of subsection (1) shall be enforced by the City of Madisionville, whether violations occur on public or private property, in the same manner used to enforce other parking laws.

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. Deposit of drivers' license in lieu of bail.
15-707. 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. (1988 Code, § 9-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1988 Code, § 9-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. (1988 Code, § 9-703, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle

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[1]State law reference
Tennessee Code Annotated, § 7-63-101, et seq.

or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until otherwise lawfully disposed of. (1988 Code, § 9-704)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1988 Code, § 9-705)

15-706. Deposit of drivers' license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. The officer, or the court demanding bail, who receives any person chauffeur's or operator's license as herein provided, shall issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety.

(3) Failure to appear--disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of Tennessee Code Annotated, § 55-7-401 et seq. (1988 Code, § 9-706)

15-707. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within thirty (30) 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 thirty (30) days but before a warrant for his arrest is issued, his fine shall be three dollars ($3.00).

(b) Other parking violations, excluding handicapped parking and fire lane violations. For other parking violations, excluding handicapped parking[1] and fire lane violations, the offender may, similarly waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars ($3.00) within thirty (30) days and five dollars ($5.00) thereafter, except for the violation of parking in a handicapped parking space under § 15-604(13) of this code, for which the offender may be punished according to the general penalty provisions of this code of ordinances. Fire lane violations shall be punishable by a penalty of fifty dollars ($50). (1988 Code, § 9-703, modified)

[1]Municipal code reference
Handicapped parking: § 15-613.

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.
16-113. Fires in streets, etc.

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. (1988 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1988 Code, § 12-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1988 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.[1] (1988 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the city council after a finding that no hazard will be created by such banner or sign. (1988 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1988 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1988 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1988 Code, § 12-108)

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. (1988 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or

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[1]Municipal code reference
Building code: title 12, chapter 1.

exhibition on the public streets without some responsible representative first securing a permit from the recorder. (1988 Code, § 12-110)

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. (1988 Code, § 12-111)

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. (1988 Code, § 12-112)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1988 Code, § 12-113)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required.
16-202. Applications.
16-203. Fee.
16-204. Deposit or bond.
16-205. Safety restrictions on excavations.
16-206. Restoration of streets, etc.
16-207. Insurance.
16-208. Time limits.
16-209. Supervision.
16-210. Driveways.
16-211. Violation and penalty.

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. (1988 Code, § 12-201)

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

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[1]State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1988 Code, § 12-202)

16-203. Fee. The fee for such permits shall be twenty dollars ($20.00). (1988 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of five hundred dollars ($500.00) if no pavement is involved or one thousand dollars ($1,000.00) if the excavation is in a paved area and shall 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 city recorder 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. (1988 Code, § 12-204)

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1988 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the city, but shall be paid for 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. (1988 Code, § 12-206)

16-207. 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 $150,000 for each person and $350,000 for each accident, and for property damages not less than $50,000 for any one (1) accident, and a $75,000 aggregate. (1988 Code, § 12-207, modified)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1988 Code, § 12-208)

16-209. Supervision. The person designated by the city shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1988 Code, § 12-209, modified)

16-210. Driveways. No one shall cut, build, or maintain a driveway that intersects with a city street, alley, or other public place 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 approach shall be permitted to encompass any municipal or other public

facilities. Under the permit provided for herein the applicant may be authorized to relocate any such utility upon application to the subject utility provider and upon making suitable arrangements for financial reimbursements to the provider. No driveway approach shall be permitted within twenty-five (25) feet of the right-of-way of the intersecting street, and no more than one driveway approach shall be permitted per lot when the lot is seventy-five (75) feet or less in width fronting on any street. All new constructions or replacement of driveway drainage culverts shall have minimum dimensions of 12 inches in diameter for concrete pipe, or fifteen (15) inches in diameter for metal corrugated pipe, and twenty (20) feet in length, and shall be constructed in a manner not to impede adequate drainage along the road right-of-way. (1988 Code, § 12-210)

16-211. Violation and penalty. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty of up to fifty dollars ($50.00), by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense.

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER
1. REFUSE.

CHAPTER 1

REFUSE

SECTION
17-101. Refuse defined.
17-102. Premises to be kept clean.
17-103. Storage.
17-104. Location of containers.
17-105. Disturbing containers.
17-106. Collection.
17-107. Collection vehicles.
17-108. Disposal.
17-109. Refuse collection fees.
17-110. Underground storage of refuse prohibited.
17-111. Brush collection.
17-112. Violations and penalty.

17-101. Refuse defined. Refuse shall mean and include garbage, and rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1988 Code, § 8-201)

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1988 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The containers shall have a capacity of not greater than thirty (30) gallons constructed of plastic, metal or fiber glass,

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[1]Municipal code reference
Property maintenance regulations: title 13.

having handles of adequate strength for lifting and having a tight fitting lid capable of preventing entrance into the container by vectors. The mouth of the container shall have a diameter greater than or equal to the base. (1988 Code, § 8-203, as amended by Ord. #03-95-2, March 1995)

17-104. Location of containers. Where alleys are used by the city refuse collectors, or by collectors working pursuant to a contract with the city for the removal of refuse, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, or by collectors working pursuant to a contract with the city for the removal of refuse, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1988 Code, § 8-204, as amended by Ord. #03-95-2, March 1995)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1988 Code, § 8-205)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the terms of the contract between the City of Madisonville and Waste Connections of Tennessee, Inc. Collections shall be made regularly in accordance with an announced schedule. (1988 Code, § 8-206, as amended by Ord. #03-95-2, March 1995, and replaced by Ord. #18-284-O, Oct. 2018)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1988 Code, § 8-207)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the city council is expressly prohibited. (1988 Code, § 8-208)

17-109. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the city council by ordinance or resolution or by the terms of the contract between the City of Madisonville and Waste Connections of Tennessee, Inc. (1988 Code, § 8-209, as amended by Ord. #03-95-2, March 1995, as replaced by Ord. #18-284-O, Oct. 2018)

17-110. Underground storage of refuse prohibited. Storage of refuse in underground containers commonly referred to as "torpedo cans," or in any other such underground container, is hereby prohibited. Any refuse stored in a container other than those described in this chapter shall not be removed by city refuse collectors or by collectors working pursuant to a contract with the city for the removal of refuse. (Ord. #03-95-2, March 1995)

17-111. Brush collection. (1) City will pick up one (1) truck load of brush per residence, per month at no cost. A fee of forty dollars ($40.00) per truck load will be charged for any additional truck loads picked up within the same month. This forty dollar ($40.00) fee must be paid at Madisonville City Hall before the city will schedule and pick up additional brush loads. The city will only pick up brush with limbs of three and one-half inches (3 1/2") in diameter or smaller that have been positioned with all cut ends facing the street. The city will not pick up any brush that exceeds three and one-half inches (3 1/2 ") in diameter or where it is evident that the brush has been piled with no regard to direction of cut ends. Any brush, branches, limbs, cut pieces, etc., that the city refuses to pick up under this section, is the sole responsibility of the property owner.

(2) The city will not pick up or otherwise remove brush generated or created by contractors, building contractors, private contractors, tree removal contractors or any other persons contracting to do work on the property. (as replaced by Ord. #10-159-0, June 2010, as replaced by Ord. #18-268-O, Oct. 2018)

17-112. Violations and penalty. Violations of this chapter shall subject the offender to a penalty of up to fifty dollars ($50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 18

WATER AND SEWERS[1]

CHAPTER
1. WATER AND SEWERS.
2. SEWER USE AND WASTEWATER TREATMENT.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
4. USER CHARGE SYSTEM.
5. STORMWATER ORDINANCE.
6. SEWER USE ORDINANCE.

CHAPTER 1

WATER AND SEWERS

SECTION
18-101. Application and scope.
18-102. Definitions.
18-103. Application and contract for service.
18-104. Service charges for temporary service.
18-105. Water connections and meter settings.
18-106. Sewer connections.
18-107. Water and sewer main extensions.
18-108. Water and sewer main extension variances.
18-109. Meters.
18-110. Meter tests.
18-111. Meter service charges.
18-112. Customer billing and payment policy.
18-113. Termination or refusal of service.
18-114. Termination of service by customer.
18-115. Access to customers' premises.
18-116. Inspections.
18-117. Customer's responsibility for system's property.
18-118. Customer's responsibility for violations.
18-119. Supply and resale of water.
18-120. Unauthorized use of or interference with water supply.
18-121. Limited use of unmetered private fire line.
18-122. Damages to property due to water pressure.
18-123. Liability for cutoff failures.

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[1]Municipal code references
Building, utility and housing codes: title 12.
Refuse disposal: title 17.

18-124. Restricted use of water.
18-125. Interruption of service.
18-126. Schedule of rates.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1988 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the city under either an express or implied contract.

(2) "Service line" shall consist of the pipe line extending from any water or sewer main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(4) "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. (1988 Code, § 13-102)

18-103. Application and contract for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form contract and pay a service deposit in an amount provided under such rate schedules as the city may adopt from time to time by appropriate resolution[1] before service is supplied. The service deposit shall be refundable if and only if the city cannot supply service in accordance with the terms of this chapter. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter, the liability of the city to the applicant shall be limited to the return of any deposit made by such applicant. (1988 Code, § 13-103, modified)

18-104. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental

[1]Administrative resolutions are of record in the office of the city recorder.

to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1988 Code, § 13-104)

18-105. Water connections and meter settings. All service lines for water will be laid by the municipality from the water main to the property line and meters set at the expense of the applicant for service. The location of such lines and meters will be determined by the municipality.

Before a new 3/4 inch service line will be laid and a meter set by the municipality, the applicant shall make a payment of $300.00 for connections within the city and $700.00 for connections outside the city. For all service lines over 3/4 inch in diameter, the applicant shall deposit such sum as shall be 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. However, in no event shall such cost be less than that for a 3/4 inch service line.

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.

All water, sewer, and gas tapping fees shall be paid in advance based on estimated costs and shall be adjusted by additional payment or refund upon completion by anyone directly or indirectly commencing service. All connections to the water, sewer, and gas system shall be made by the City of Madisonville or contractors working directly for the city. No tapping fees shall be accepted until the city recorder has determined that service is available or can be extended to the customer. It shall be illegal for anyone to receive city services without complying with the above procedures.

Any customer receiving city services without complying with the above procedures shall be assessed a penalty under the general penalty provision of this code. Each day that a violation continues shall constitute a separate offense. Such penalty shall be in addition to the normal taping fee. (1988 Code, § 13-105, modified, as amended by Ord. #02-29-0, June 2002)

18-106. Sewer connections. Any person, firm, or corporation desiring to connect with an existing public sewer where such public sewer abuts with and is adjacent to the applicant's property shall first apply to the municipality and fill out the proper application blank for such connection. Each application shall be accompanied by a connection fee in an amount provided under such rate schedules as the city may adopt from time to time by appropriate resolution. All connections made pursuant to this section shall be made by municipal

employees or by a contractor employed by the municipality and shall be extended from the public sewer main to the private property line. This section shall have no application where mains are extended pursuant to § 18-107 of this code, and all connections made to mains extended pursuant to § 18-107 shall be made in accordance with said § 18-107. (1988 Code, § 13-106, modified)

18-107. Water and sewer main extensions. (1) Any person, firm, or corporation within or outside the municipality desiring to have water and/or sewerage service made available to a particular area or subdivision and to be served by the water and/or sewerage system of the municipality shall:

(a) Enter into a written developmental agreement with the city, if the person, firm, or corporation is a developer.

(b) At own expense prepare detailed plans and specifications of the distribution system in conformance with the regulations of the municipality.

(c) Secure the approval of the plans and specifications in writing from the city engineer.

(d) At own expense, construct the distribution system in accordance with the specifications in a good and workmanlike manner and furnish all materials, labor and services therefor.

(e) Furnish to the municipality evidence that all bills and charges for labor and materials and other services used in the construction have been paid.

(f) Furnish to the municipality a written statement from the city engineer that the installation conforms to all specifications and that he has approved it.

(g) Transfer and convey, by a written instrument, the distribution system, one (1) year after completion, to the municipality free from all liens of every kind.

(2) The city engineer, through the development agreement, shall secure bids from competent and licensed contractors for the furnishing of materials, labor, and services necessary for the construction of the distribution system.

(3) If the entire cost of construction and installation of such system is approved by the city engineer, and if it is conveyed and transferred to the municipality free from all liens and encumbrances, and if the applicant keeps and performs his agreements and undertakings as set forth above, then

(a) The municipality will permit the system to be connected onto its distribution system and will furnish water and/or sewerage service to each customer within the area or subdivision after the installation of a municipally owned water meter for each service.

(b) The municipality will charge for water and/or sewerage service at the rates currently being charged other customers in similar locations. (1988 Code, § 13-107, modified)

18-108. Water and sewer main extension variances. Whenever the city council is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the city council and city engineer.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. (1988 Code, § 13-108, modified)

18-109. Meters. All meters shall be installed, tested, repaired, and removed only by the city.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1988 Code, § 13-109)

18-110. Meter tests. The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	Percentage
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The city will also make tests or inspections of its meters at the request of the customer. However, if a test required 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:

Meter Size	Test Charge
5/8", 3/4", 1"	$15.00
1-1/2", 2"	18.00
3"	22.00
4"	30.00
6" and over	35.00

If such tests show a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city. (1988 Code, § 13-110)

18-111. Meter service charges. (1) Multiple services through a single meter. No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one 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 and charges 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 city's applicable water 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.

(2) Minimum bill. All water services obtained under this chapter shall pay a minimum monthly water bill in the amount prescribed under § 18-126 of this chapter even if they used no water during the month.

(3) Meter availability charge. All water customers who have or will obtained a water meter from the city under this chapter but who have not physically connected their homes, businesses, or any other establishment or property to the water meter as of the date of the adoption of this section shall have the option of retaining the water meter by paying the minimum monthly water bill prescribed in subsection (2) above. That option shall remain open for **60 days**. After that time the city will remove the water meter or lock the meter, at the city's discretion, until such time as the property owner or user makes application for, and becomes a customer of, water service under the provisions of, and subject to the charges contained, in this chapter.

(4) Changes in tenants and users. Where the water customer is a tenant or other user of the property, and the water customer's water service is terminated either by the water customer or by the city for any reason under this chapter, and the water service has been disconnected, the water service shall be transferred to the name of the property owner or landlord, if there is a landlord agreement on file with the city, or locked at the request of the property owner or landlord. The property owner or landlord shall bear no financial responsibility of the former tenant's or other user's use of water before that time, but shall be financially responsible, unless the meter is locked by the city, for the use of water on the property, as governed by the provisions of § 18-126 of this chapter after that time and until such time as a new tenant or other user or occupier, has become a customer of water service on the property under this chapter.

A fee of $25.00 will be charged to unlock and turn on the meter. (1988 Code, § 13-111, as amended by Ord. #06-99-0, June 2006)

18-112. Customer billing and payment policy. Water, gas, and sewer bills shall be rendered monthly and shall designate a standard net payment period for all members of not less than ten (10) days after the date of the bill. Failure to receive a bill will not release a customer from payment obligation. There is established for all members a late payment charge not to exceed 10% for any portion of the bill paid after the net payment period.

Payment must be received in the water and sewer department no later than 4:30 P.M. on the due date. If the due date falls on Saturday, Sunday, or a holiday, net payment will be accepted if paid on the next business day no later than 4:30 P.M.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. (1988 Code, § 13-112, modified)

18-113. Termination or refusal of service. (1) Basis of termination or refusal. The city shall have the right to discontinue water and sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

(a) These rules and regulations, including the nonpayment of bills.

(b) The customer's application for service.

(c) The customer's contract for service.

The right to discontinue service shall apply to all water and sewer services received through collective single connections or services, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

(2) Termination of service. Reasonable written notice (e.g., monthly bill, letter, or tag) shall be given to the customer before termination of city utility services according to the following terms and conditions:

(a) A written notice of the deadline by which the City of Madisonville is to receive payment for utility services is set forth on each monthly bill sent to each municipal customer. Failure to remit payment by the date indicated will result in the termination of utility services. The written notice given on the monthly utility bill, shall include the following information:

(i) The amount due.

(ii) The last date by which payment must be received by the City of Madisonville in order to avoid service termination.

(iii) The customer's right to a hearing prior to service termination, and, in the case of nonpayment of bills, the availability of special counseling for emergency and hardship cases. The customer is required to promptly notify the city if the customer desires a hearing to occur.

(b) Hearings for service termination, including for nonpayment of bills, will be held by appointment only at the city hall between the hours of 8:30 A.M. and 4:30 P.M. on any business day, by request.

(c) Termination will not be made on any preceding a day when the water and sewer department is scheduled to be closed (Sunday or Holiday).

(d) If a customer does not request a hearing, or, in the case of nonpayment of a bill, does not make payment of the bill, or does not otherwise correct the problem that resulted in the notice of termination in a manner satisfactory to the water and sewer department, the same shall proceed on schedule with service termination.

(e) Service terminated for any reason shall be reconnected only after the payment of all charges due have been remitted to the city or satisfactory arrangements for payment have been made, or the correction of the problem that resulted in the termination of service is made in a manner satisfactory to the water and sewer department, plus the payment of a reconnection charge of $25.00 for the first occurrence, $50.00 for the second occurrence, and $100.00 for the third and any subsequent occurrences. Payment for reconnection must be made in cash. (1988 Code, § 13-113, modified, as amended by Ord. #02-35-0, Jan. 2003)

18-114. <u>Termination of service by customer</u>. 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 city 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 city 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 city should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city 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. (1988 Code, § 13-114)

18-115. Access to customers' premises. The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1988 Code, § 13-115)

18-116. Inspections. The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not in compliance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1988 Code, § 13-116)

18-117. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements will be determined by the city foreman and shall be paid by the customer. If service is disconnected, the cost must be paid in full before service is scheduled for reconnection by the city foreman. If damage is done to rental property and the renter has moved, damages must be paid by the property owner. (1988 Code, § 13-117, modified)

18-118. Customer's responsibility for violations. Where the city furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1988 Code, § 13-118)

18-119. Supply and resale of water. All water shall be supplied within the city exclusively by the city, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the city. (1988 Code, § 13-119)

18-120. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city. (1988 Code, § 13-120)

18-121. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence. (1988 Code, § 13-121)

18-122. Damages to property due to water pressure. The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1988 Code, § 13-122)

18-123. Liability for cutoff failures. The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the city has failed to cut off such service.

(2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1988 Code, § 13-123)

18-124. Restricted use of water. In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1988 Code, § 13-124)

18-125. Interruption of service. The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1988 Code, § 13-125)

18-126. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance or resolution.[1] (1988 Code, § 13-126)

[1]Administrative ordinances and regulations are of record in the office of the city recorder.

CHAPTER 2

WASTEWATER REGULATIONS

SECTION

18-201. Purpose and policy.
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18-210. Penalties; costs.
18-211. Fees and billing.
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18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Madisonville, Tennessee, wastewater treatment system. The objectives of this chapter are:

(1) To protect the public health;

(2) To provide problem free wastewater collection and treatment service;

(3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the system discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;

(4) To provide for full and equitable distribution of the cost of the wastewater treatment system;

(5) To enable the City of Madisonville to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal, state laws and regulations;

(6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Madisonville of 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. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the City of Madisonville and to persons outside the city who are, by contract or agreement with the city users of the municipal wastewater treatment system. Except as otherwise provided herein, the superintendent shall administer, implement, and enforce the provisions of this chapter. (1988 Code, § 8-301)

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. 1251, et seq.

(2) "Approval authority." The director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) a principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "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 20 centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards." The National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "City." The City of Madisonville or city council, City of Madisonville, Tennessee.

(8) "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 city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(9) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(10) "Control authority." The term "control authority" shall refer to the "Approval authority," defined hereinabove; or the city council if the city has an approved Pretreatment Program under the provisions of 40 CFR 403.11.

(11) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(12) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(13) "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.

(14) "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.

(15) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(16) "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 without consideration of time.

(17) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(18) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(19) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(20) "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).

(21) "Interference." The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant

to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(22) "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.

(23) "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 Federal Water Pollution Control Act as amended.

(24) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard if thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(25) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(26) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(27) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(28) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(29) "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 as prohibited by 40 CFR Section 40.36(d).

(30) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(31) "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 city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City of Madisonville, who are, by contract or agreement with the city users of the city's POTW.

(32) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(33) "Shall" is mandatory; "May" is permissive.

(34) "Slug." Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(35) "State." The State of Tennessee.

(36) "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.

(37) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(38) "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.

(39) "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.

(40) "Superintendent." The mayor 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.

(41) "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.

(42) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a 24-hour period

in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(43) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(44) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(45) "Wastewater treatment systems." Defined the same as POTW.

(46) "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. (1988 Code, § 8-302)

18-203. Connection to public sewers. (1) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Madisonville, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-203(1)(e) 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 public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the property line over public access.

(e) 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.

(f) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d) above, the building sewer shall be connected

to a private sewage disposal system complying with the provisions of § 18-204 of this chapter.

(2) Physical connection public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first obtaining a written permit from the city recorder as required by § 18-206 of this chapter.

The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A connection fee shall be paid to the city at the time the application is filed.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(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").

Small diameter gravity sewer - Two inches (2").

Septic Tank Effluent Pump - One and one quarter inches (1-1/4").

Where the septic tank becomes an integral part of the collection and treatment system, the minimum size influent line shall be four inches (4") and the minimum size of septic tank shall be 1,000 gallons. Septic tanks shall be constructed of polyethylene and protected from flotation. The city shall have the right, privilege, and authority to locate, inspect, operate, and maintain septic tanks which are an integral part of the collection and treatment system.

(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 - 1/8 inch per foot.

Two inch (2") sewers - 3/8 inch per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(iv) Slope and alignment of all building sewers shall be consistent and straight.

(v) Gravity building sewers shall be constructed only of the following material:

(A) Ductile iron pipe class 50 or above with rubber or neoprene gasket and "push-on" joints.

(B) Polyvinyl chloride pipe SDR-35 with solvent or neoprene gaskets and "push-on" joints.

(C) Polyvinyl chloride pipe SDR-21 with solvent weld joints and schedule 40 fittings.

Pressure sewers shall be polyvinyl chloride pipe SDR-21 with rubber or neoprene "O" rings compression joints.

(vi) A cleanout shall be located five (5) feet outside of the building, one as it crosses the property line and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of six (6) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches.

(vii) Connections of building sewers to the public sewer system shall be made only by a contractor 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 at locations as approved by the superintendent.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary

sewage carried by such building drain shall be lifted by a pump and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) 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.

(b) 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 or user of the POTW shall be entirely responsible for the maintenance which will include repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. (1988 Code, § 8-303)

18-204. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided

in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-203(2)(e)(viii).

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Monroe County Health Department.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the city and the Monroe County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the City of Madisonville and the Monroe County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the City of Madisonville and the Monroe County Health Department. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the City of Madisonville and the Monroe County Health Department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the City of Madisonville and the Monroe County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of Tennessee, the City of Madisonville and the Monroe County Health Department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the City of Madisonville's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the City of Madisonville and the Monroe County Health Department. (1988 Code, § 8-304)

18-205. Fees and designated disposal locations for domestic holding tank waste disposal. (1) Statement of compliance. Any person, firm, association, or corporation desiring to dispose of domestic holding tank waste shall file on a prescribed form, a statement of compliance that the conditions of this chapter have been met.

(2) Fees. For each statement filed under the provisions of this chapter the applicant shall pay a per disposal service charge to the city to be set as specified in § 18-211.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the disposal of domestic holding tank waste 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 absolute discretion where it appears that the waste could interfere with the operation of the POTW. (1988 Code, § 8-305)

18-206. Application for domestic wastewater discharge and industrial wastewater discharge permits. (1) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the city sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-201 of this chapter and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall obtain a permit.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the superintendent, an application on a prescribed form accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and

proposed new users shall apply at least 60 days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-207(1) and (2) discharge variations -- daily, monthly, seasonal and 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 superintendent.

(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 superintendent for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or O&M 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 § 18-207 of this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The superintendent will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the superintendent 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 superintendent, the superintendent shall deny the application and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(ii) Limits on the average and maximum rate and time of discharge or requirements and equalization;

(iii) Requirements for installation and maintenance of inspections and sampling facilities;

(iv) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(v) Compliance schedules;

(vi) Requirements for submission of technical reports or discharge reports;

(vii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(viii) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

(ix) Requirements for notification of slug discharged;

(x) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the

wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-206(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the superintendent 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 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permits 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 reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Revocation of permit. Any permit issued under the provisions of the 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 any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(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, questionnaire, permit application, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the superintendent that the

release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the superintendent as confidential shall not be transmitted to any governmental agency or to the general public by the superintendent until and unless prior and adequate notification is given to the user. (1988 Code, § 8-306)

18-207. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(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 POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) 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 but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste

paper, wood, plastics, gas, tar, asphalt residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) 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 POTW.

(d) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance, hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW 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 POTW cause the POTW to be in non-compliance with sludge use or 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.

(g) Any substances which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.

(h) 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.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the sewer system which exceeds 65°C (150° F) or causes the influent at the wastewater plant to exceed 40°C (104° F).

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(l) Any waters containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(m) Any wastewater which causes a hazard to human life or creates a public nuisance.

(n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty degrees (150°) F (0 and 65° C).

(o) 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) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the following set of standards (Table A - User Discharge Restrictions) unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - User Discharge Restrictions

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5
Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides & Herbicides	BDL	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants, as MBAS	25.0	50.0
Zinc	3.0	5.0

*Based on 24-hour flow proportional composite samples.
BDL = Below Detectable Limits

(3) Protection of treatment plant influent. The superintendent shall monitor the treatment works influent for each parameter in the following table. (Table B - 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 POTW reaches or exceeds the levels established by this table, the superintendent shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pre-treatment levels for these parameters. The superintendent shall also recommend changes to any of these criteria in the event that: the POTW 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 POTW.

Table B-Plant Protection Criteria

Parameter	Maximum Concentration (mg/l) (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/l) Grab Sample
Aluminum dissolved (AL)	3.00	6.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.06	0.12
Barium (Ba)	2.50	5.0
Boron	0.4	0.8
Cadmium (Cd)	0.004	0.008
Chromium Hex	0.06	0.12
Cobalt	0.03	0.06
Copper (Cu)	0.16	0.32
Cyanide (CN)	0.03	0.06
Fluoride (F)	0.6	1.2
Iron (Fe)	3.0	6.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.1	0.2
Mercury (Hg)	0.025	0.05
Nickel (Ni)	0.15	0.30
Pesticides & Herbicides	0.001	0.002
Phenols	1.00	2.0
Selenium (Se)	0.01	0.02
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Zinc (Zn)	0.3	0.6
Total Kjeldahl Nitrogen (TKN)	45.00	90.00
Oil & Grease	50.00	100.00
MBAS	5.00	10.0
BOD	220	350
COD	440	700
Suspended Solids	220	350

(4) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular

industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(5) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the superintendent from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW 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.

(6) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from 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 superintendent 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. Any person causing or suffering from any accidental discharge shall immediately notify the superintendent (or designated official) in person, by the telephone to enable countermeasures to be taken by the superintendent to minimize damage to the POTW, 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 POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any

fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) 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. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC. Each user shall annually certify to the superintendent compliance with this paragraph. (1988 Code, § 8-307)

18-208. Industrial user monitoring, inspection reports, records access, and safety. (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 superintendent.

When in the judgment of the superintendent, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the superintendent 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 superintendent, 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 superintendent 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) Inspection and sampling. The city shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user

has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(3) Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a professional engineer registered to practice engineering in Tennessee.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall summit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

(b) The superintendent may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the superintendent of pollutants contained therein which are limited by the

applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

(a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;

(b) The dates analyses were performed;

(c) Who performed the analyses;

(d) The analytical techniques/methods used; and

(e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the superintendent, Director of the Division of Water Quality Control, Tennessee Department of Health or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the superintendent, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (1988 Code, § 8-308)

18-209. Enforcement and abatement. (1) Issuance of cease and desist orders. When the superintendent finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the superintendent shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

(a) Comply immediately;

(b) Comply in accordance with a time schedule set forth by the superintendent;

(c) Take appropriate remedial or preventive action in the event of a threatened violation; or

(d) Surrender the applicable user's permit if ordered to do so after a show cause hearing.

Failure of the superintendent to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(2) Submission of time schedule. When the superintendent finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a wastewater discharge permit, the superintendent shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the superintendent within 30 days of the issuance of the cease and desist order.

(3) Show cause hearing. (a) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the city council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the city council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the city council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(b) The city council may itself conduct the hearing and take the evidence, or the city council may appoint a person to:

(i) Issue in the name of the city council notice of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of reproduction costs.

(d) After the city council or the appointed persons have reviewed the evidence, it/they may issue an order to the user responsible for the

discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal and/or equitable relief in a court of competent jurisdiction.

(5) Emergency termination of service. The superintendent may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes Interference to the POTW or causes the city to violate any condition of its NPDES Permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(6) Public nuisance. Discharges or wastewater in any manner in violation of this chapter or of any order issued by the city council or superintendent as authorized by this chapter is hereby declared a public nuisance and shall be corrected or abated as directed by the city council. Any person creating a public nuisance shall be subject to the provisions of the city code or ordinances governing such nuisance.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the superintendent shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating this chapter or the owner or tenant of the property upon which the violation occurs, and the city shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to

facilities, the superintendent shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The City of Madisonville shall sue for such damage in any court of competent jurisdiction. (1988 Code, § 8-309)

18-210. Penalties; costs. (1) Civil penalties. Any user who is found to have violated an order of the city council or the superintendent, or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined not less than fifty and 00/100 dollars ($50.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense.

(2) Costs recoverable. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, engineering fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder. (1988 Code, § 8-310)

18-211. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

(a) Inspection fee and tapping fee;
(b) Fees for applications for discharge;
(c) Sewer use charges;
(d) Surcharge fees;
(e) Industrial wastewater discharge permit fees;
(f) Fees for industrial discharge monitoring; and
(g) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-206 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's Sewer Department at the time the application is filed.

(5) Sewer user charges.[1] The city council shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-206 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program. (1988 Code, § 8-311)

18-212. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Madisonville. (1988 Code, § 8-312)

[1]Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-301. Definitions.
18-302. Standards.
18-303. Construction, operation, and supervision.
18-304. Statement required.
18-305. Inspections required.
18-306. Right of entry for inspections.
18-307. Correction of existing violations.
18-308. Use of protective devices.
18-309. Unpotable water to be labeled.
18-310. Violations.

18-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the city for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(2) "Cross connection." Any physical arrangement whereby the public water supply is connected, directly or indirectly, with any other water supply system, whether sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain

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[1]Municipal code references
Plumbing code: title 12.
Water and sewer system administration: title 18.
Wastewater treatment: title 18.

sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "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. (1988 Code, § 8-401)

18-302. Standards.[1] The municipal public water supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1988 Code, § 8-401)

18-303. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the mayor or his representative. (1988 Code, § 8-403)

18-304. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the mayor a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1988 Code, § 8-404)

18-305. Inspections required. It shall be the duty of the mayor to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the mayor and as approved by the Tennessee Department of Environment and Conservation. (1988 Code, § 8-405)

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[1]See Appendix B for the "Madisonville Water System Cross-Connection Control Plan."

18-306. Right of entry for inspections. The mayor or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (1988 Code, § 8-406)

18-307. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the mayor.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the city council shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the mayor shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1988 Code, § 8-407)

18-308. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation.

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the mayor, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the mayor or his designated representative, shall

require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the superintendent prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the mayor or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the mayor shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The mayor shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the mayor.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the mayor. (1988 Code, § 8-408)

18-309. <u>Unpotable water to be labeled</u>. In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1988 Code, § 8-409)

18-310. Violations. The requirements contained herein shall apply to all premises served by the city water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined under the general penalty clause for this municipal code of ordinances. (1988 Code, § 8-410)

CHAPTER 4

USER CHARGE SYSTEM

SECTION

18-401. General provisions.
18-402. Charge structure.

18-401. General provisions. (1) Actual use. The user charge system shall be based on actual use, or estimated use, of wastewater treatment services. Each user or user class must pay their proportionate share of the costs of wastewater treatment services based on the quantity and quality of their discharge.

(2) Notification. Each user shall be notified annually in conjunction with their regular bill of the rate being charged for wastewater treatment services.

(3) Financial management system. The user charge system must establish a financial management system that will accurately account for revenue generated and expenditures of the wastewater system. This financial management system shall be based on an adequate budget identifying the basis for determining the annual operating expenses, interest expense, depreciation (if appropriate), and any reserve account requirements.

(4) Charges for inflow and/or infiltration. The user charge system shall provide that the cost of operation and maintenance for all flow not directly attributable to users be distributed among all users in the same manner that it distributes the costs of the actual or estimated usage.

(5) Use of revenue. Revenue derived from a wastewater project funded by a state revolving loan; including but not limited to, sale of treatment-related-by-products; lease of land; or sale of crops grown on land purchased shall offset current user charges as well as moderate future rate increases.

(6) Other municipalities. If the wastewater system accepts wastewater from other local governments, these subscribers receiving wastewater treatment services shall adopt user charge systems in accordance with the same state regulations, requiring this chapter.

(7) Inconsistent agreements. This user charge system shall take precedence over the terms or conditions of contracts between the city and users which are inconsistent with the requirements of this chapter. (Ord. #9-90, Aug. 1990)

18-402. Charge structure. (1) Classification of users. Class 1: Those users whose average biochemical oxygen demand (BOD) is 250 milligrams per liter by weight or less, and whose suspended solids (SS) discharge is 300 milligrams per liter by weight or less. (C1)

Class 2: Those users whose average BOD exceeds 250 milligrams per liter concentration by weight and whose SS exceeds 300 milligrams per liter concentration. (C2)

(2) Determination of costs. The governing body shall establish monthly rates and charges for the use of the wastewater system and the services supplied by the wastewater system. These charges shall be based upon the cost categories described as operation, maintenance, and replacement (OMR); interest (I); and, principal repayments or depreciation, whichever is greater (P).

(a) All users who fail under Class 1 shall pay a single unit charge expressed as dollars per 1000 gallons of water purchased with the unit charge being determined by the following formula:

C1 = OMR + I + P/ Total gallons treated

(b) All users who fall within Class 2 classification shall pay the same base unit charge per 1,000 gallons of water purchased as for the Class 1 users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand (BOD) and suspended solids (SS) in direct proportion to the actual discharge quantities.

C2 = C1 plus the following formula for excessive strength

$$(A(D-250) + B(E-250) + C(F-25)) \times .00834 \times G = \text{Surcharge Payment (\$/Mo.)}$$

The components of the formula are as follows:

A = Surcharge rate for BOD, in $/pound.
B= Surcharge rate of SS, in $/pound.
C= Surcharge rate for other pollutant(s) in $/pound.
D= User's average BOD concentration, in mg/l.
E= User's average SS concentration, in mg/l.
F= User's average other pollutants concentration, in mg/l.
G= User's monthly flow to sewage works, per 1,000 gallons.

No reduction in sewage service charges, fees, or taxes shall be permitted because of the fact that certain wastes discharged to the sewage works contain less than mg/l of BOD, mg/l of SS or mg/l of other pollutant(s).

(c) The volume of water purchased which is used in the calculation of wastewater use charges may be adjusted by the city recorder if a user does not discharge it to the public sewers (i.e. filling swimming pools or industrial heating). The user shall be responsible for documenting the quantity of wastewater actually discharged to the public sewer.

(3) The governing body will review the user charges annually along with the budget process and revise the rates as necessary to ensure that adequate revenues are generated to pay OMR, I, and P. The periodic review shall also ensure that the system continues to provide for the proportional distribution of these costs among users and user classes.

(4) The rates are recorded in § 18-126 of the municipal code. (Ord. #9-90, Aug. 1990)

CHAPTER 5

STORMWATER ORDINANCE

SECTION

18-501. General provisions.
18-502. Definitions.
18-503. Land disturbance permits.
18-504. Storm water system design and management standards.
18-505. Post construction.
18-506. Waivers.
18-507. Existing locations and developments.
18-508. Illicit discharges.
18-509. Enforcement.
18-510. Penalties.
18-511. Appeals.

18-501. General provisions. (1) Purpose. It is the purpose of this ordinance to:

(a) Protect, maintain, and enhance the environment of the City of Madisonville and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and 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 the city.

(b) Enable the City of Madisonville to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR § 122.26 for stormwater discharges.

(c) Allow the City of Madisonville 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:

(i) 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;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The city codes compliance office shall administer the provisions of this ordinance. (as added by Ord. #05-85-0, Aug. 2005)

18-502. Definitions. For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "As built plans" means drawings depicting conditions as they were actually constructed.

(2) "Best management practices" or "BMPs" are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Madisonville, and that have been incorporated by reference into this ordinance as if fully set out therein.

(3) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(4) "Community water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Madisonville.

(5) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(6) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(7) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(8) "Easement" means 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.

(9) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

(10) "Erosion and sediment control plan" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(11) "Hotspot" ("priority area") means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(12) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(13) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 18-203(3).

(14) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(15) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(16) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(17) "Municipal separate storm sewer system (MS4)" ("Municipal separate stormwater system") means the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(18) "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.

(19) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(20) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(21) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(22) "Person" means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(23) "Priority area" means "hot spot" as defined in § 18-202(11).

(24) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(25) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(26) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.

(27) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

(28) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(29) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(30) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(31) "Stormwater management facilities" means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(32) "Stormwater management plan" means the 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 pre-development levels.

(33) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(34) "Stormwater utility" means the stormwater utility created by ordinance of the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality.

(35) "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.

(36) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(37) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(38) "Watershed" means all the land area that contributes runoff to a particular point along a waterway. (as added by Ord. #05-85-0, Aug. 2005)

18-503. Land disturbance permits. (1) When required. (a) Every person will be required to obtain a land disturbance permit from the City of Madisonville in the following cases:

(i) Land disturbing activity disturbs one (1) or more acres of land;

(ii) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acre of land;

(iii) Land disturbing activity of less than one (1) acre of land, if in the discretion of the city codes compliance officer such activity poses a unique threat to water, or public health or safety;

(iv) The creation and use of borrow pits.

(2) Building permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.

(3) Exemptions. The following activities are exempt from the permit requirement:

(a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency.

(d) Additions or modifications to existing single family structures.

(4) Application for a land disturbance permit. (a) Each application 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 in the office of the assessor of property;

(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 erosion and sediment control 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 starting and completion dates of the land disturbing activity.

(vii) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation 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 the city codes compliance officer from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

(b) Each application shall be accompanied by:

(i) A sediment and erosion control plan as described in § 18-505(5).

(ii) A stormwater management plan as described in § 18-505(4), providing for stormwater management during the land disturbing activity and after the activity has been completed.

(iii) Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by resolution or ordinance.

(5) Review and approval of application. (a) The city codes compliance officer will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within thirty (30) days after receiving an application, the city codes compliance officer shall provide one of the following responses in writing:

(i) Approval of the permit application;

(ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially

the objectives of this ordinance, and issue the permit subject to these conditions; or

(iii) Denial of the permit application, indicating the reason(s) for the denial.

(b) If the city codes compliance officer has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the city codes compliance officer. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the city codes compliance officer.

(c) No development plans will be released until the land disturbance permit has been approved.

(6) 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 hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction.

(7) Notice of construction. The applicant must notify the city codes compliance officer ten (10) working days in advance of the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the city codes compliance officer. All inspections shall be documented and written reports prepared that contain the following information:

(i) The date and location of the inspection;

(ii) Whether construction is in compliance with the approved stormwater management plan;

(iii) Variations from the approved construction specifications;

(iv) Any violations that exist.

(8) Performance bonds. (a) The City of Madisonville may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City of Madisonville. Alternatively the City of Madisonville shall have the right to calculate the cost of construction cost estimates.

(b) The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The city codes compliance officer will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the city codes compliance officer. (as added by Ord. #05-85-0, Aug. 2005)

18-504. Stormwater system design and management standards. (1) Stormwater design or BMP manual. (a) Adoption. The municipality adopts as its stormwater design and best management practices (BMP) manual the following publications, which are incorporated by reference in this ordinance as is fully set out herein:

(i) TDEC Sediment and Erosion Control Manual

(ii) TDEC Manual for Post Construction

(b) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the governing body of the municipality, upon the recommendation of the city codes compliance officer and/or city's engineer, based on improvements in engineering, science, monitory and local maintenance experience. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) General performance criteria for stormwater management. Unless granted a waiver or judged by the city codes compliance officer to be exempt, the following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

(c) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(d) Stormwater discharges from "hot spots" may require the application of specific structural BMPs and pollution prevention practices.

(e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the city codes compliance officer to determine if they are subject to additional stormwater design requirements.

(f) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all stormwater facilities.

(3) Minimum control requirements. (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual unless the City of Madisonville has granted the applicant a full or partial waiver for a particular BMP under § 18-504.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Madisonville may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4) Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the city codes compliance officer to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic base map: A topographic base map of the site which extends a minimum of feet beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns;

locations of utilities, roads and easements; the limits of clearing and grading;

(v) Proposed structural BMPs;

(vi) A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(b) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:

(i) A description of the design storm frequency, duration, and intensity where applicable;

(ii) Time of concentration;

(iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;

(iv) Peak runoff rates and total runoff volumes for each watershed area;

(v) Infiltration rates, where applicable;

(vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

(vii) Flow velocities;

(viii) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and

(ix) Documentation of sources for all computation methods and field test results.

(c) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(d) Maintenance and repair plan: The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(e) Landscaping plan: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including 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. Where it is required by the BMP, this plan must be prepared by a registered landscape architect licensed in Tennessee.

(f) Maintenance easements: The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(g) Maintenance agreement:

(i) The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(ii) The maintenance agreement shall:

(A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the city codes compliance officer. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(C) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the city codes compliance officer.

(E) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Madisonville shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Madisonville's cost of performing the maintenance shall be a lien against the property.

(iii) The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(h) Sediment and erosion control plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with § 18-505(5) below.

(5) Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be sealed by a registered professional engineer licensed in the state of Tennessee. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

(a) Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved,

trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(f) Approximate limits of proposed clearing, grading and filling.

(g) Approximate flows of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) Proposed drainage network.

(k) Proposed drain tile or waterway sizes.

(l) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMP's.

(n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(o) Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City of Madisonville. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the city

codes compliance officer. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(p) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(q) A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration. (as added by Ord. #05-85-0, Aug. 2005)

18-505. Post construction. (1) 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. A final inspection by the city codes compliance officer is required before any performance security or performance bond will be released. The city codes compliance officer shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMP's have been made and accepted by the city codes compliance officer.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the city codes compliance officer. The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation 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.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for in § 18-505(4)(g)(ii)(B).

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least years. These records shall be made available to the city codes compliance officer during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the City of Madisonville, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Madisonville shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City of Madisonville may take necessary corrective action. The cost of any action by the City of Madisonville under this section shall be charged to the responsible party. (as added by Ord. #05-85-0, Aug. 2005)

18-506. Waivers. (1) General. Every applicant shall provide for post construction stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the city codes compliance officer for approval.

(2) Conditions for waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

(b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Madisonville.

(c) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which

would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

(3) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City of Madisonville that the waiver will not lead to any of the following conditions downstream:

(a) Deterioration of existing culverts, bridges, dams, and other structures;

(b) Degradation of biological functions or habitat;

(c) Accelerated streambank or streambed erosion or siltation;

(d) Increased threat of flood damage to public health, life or property.

(4) Land disturbance permit not to be issued where waiver requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater management plan. (as added by Ord. #05-85-0, Aug. 2005)

18-507. Existing locations and developments. (1) Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City of Madisonville.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rapp, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:

(i) Ponds
  (A) Detention pond
  (B) Extended detention pond
  (C) Wet pond
  (D) Alternative storage measures

(ii) Constructed wetlands

(iii) Infiltration systems
  (A) Infiltration/percolation trench
  (B) Infiltration basin
  (C) Drainage (recharge) well

(D) Porous pavement
(iv) Filtering systems
(A) Catch basin inserts/media filter
(B) Sand filter
(C) Filter/absorption bed
(D) Filter and buffer strips
(v) Open channel
(A) Swale

(2) Requirements for existing problem locations. The City of Madisonville shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The City of Madisonville may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the stormwater utility under this section are subject to appeal under § 18-511 of this ordinance. (as added by Ord. #05-85-0, Aug. 2005)

18-508. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

(a) Uncontaminated discharges from the following sources:
(i) Water line flushing or other potable water sources,

(ii) Landscape irrigation or lawn watering with potable water,

(iii) Diverted stream flows,

(iv) Rising ground water,

(v) Groundwater infiltration to storm drains,

(vi) Pumped groundwater,

(vii) Foundation or footing drains,

(viii) Crawl space pumps,

(ix) Air conditioning condensation,

(x) Springs,

(xi) Non-commercial washing of vehicles,

(xii) Natural riparian habitat or wet-land flows,

(xiii) Swimming pools (if dechlorinated - typically less than one PPM chlorine),

(xiv) Fire fighting activities, and

(xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the city codes compliance officer as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the city codes compliance officer has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the

event of a release of non-hazardous materials, the person shall notify the city codes compliance officer in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city codes compliance officer 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 7 years. (as added by Ord. #05-85-0, Aug. 2005)

18-509. Enforcement. (1) Enforcement authority. The city codes compliance officer or his/her designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the city codes compliance officer finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the officer may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The city codes compliance officer is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(c) Show cause hearing. The City of Madisonville through legal counsel or through the city codes compliance officer, may order any person who violates this ordinance or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(d) Compliance order. When the city codes compliance officer finds that any person has violated or continues to violate this ordinance

or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the city codes compliance officer finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the city or its city codes compliance officer may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(3) Conflicting standards. Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail. (as added by Ord. #05-85-0, Aug. 2005)

18-510. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Madisonville, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the municipality declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the City of Madisonville of not less than fifty dollars ($50.00) and not more than five thousand dollars ($5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the city by and through its city codes compliance officer may consider:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the municipality;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover;

(a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.

(b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.

(5) Other remedies. The City of Madisonville may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #05-85-0, Aug. 2005)

18-511. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the municipality's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the City of Madisonville's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the City of Madisonville shall be final.

(3) Appealing decisions of the municipality's governing body. Any alleged violator may appeal a decision of the municipality's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #05-85-0, Aug. 2005)

CHAPTER 6

SEWER USE ORDINANCE

SECTION

18-601. General provisions--definitions.
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18-601. General provisions--definitions. The following words, terms, and phrases, wherever used in this ordinance, shall have the meanings respectively ascribed to them in this section unless the context plainly indicates otherwise or that a more restricted or extended meaning is intended.

(1) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq.

(2) "Accidental discharge." Any release of wastewater that, for any unforeseen reason, fails to comply with any prohibition or limitation in this ordinance.

(3) "Approval authority." The director and/or the Division of Water Pollution Control of the Tennessee Department of Environment and Conservation (TDEC) or his designee.

(4) "Authorized representative of a user." An authorized representative of an industrial/commercial user shall be:

(a) A principal executive officer of at least the level of vice-president if the user is a corporation;

(b) A general partner or proprietor if the user is a partnership or proprietorship, respectively; or

(c) A duly authorized representative of the individual designated above if such representative is responsible for the operation of the facilities from which the indirect discharge originates.

(5) "Best Management Practices (BMPs)." Consistent maintenance practices to insure that the grease trap and/or grease interceptor effluent and structure are in compliance with this ordinance. Such practices include, but are not limited to, regular cleanout schedules, posted cleanout procedures, and grease reduction guidelines.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty degrees (20°) C (sixty-eight degrees (68°) F) expressed in terms of weight and volume (mg/L).

(7) "Building sewer." The connecting pipe from a building, beginning five feet (5') outside the inner face of the building wall, to a sanitary sewer.

(8) "Bypass." The intentional or unintentional diversion of waste streams from any portion of a user's facility.

(9) "City." The City of Madisonville, Tennessee.

(10) "Sanitation board member." The member of the Board of Aldermen of the City of Madisonville that shall be assigned by the mayor to have oversight responsibilities for the city's sewer system.

(11) "Commercial user." Any user of the wastewater system who discharges commercial waste, as that term is defined in § 18-601(12), into the wastewater system.

(12) "Commercial waste." The liquid and waterborne wastes resulting from processes or operations generated by commercial establishments beyond the character and content of typical domestic wastes.

(13) "Compatible pollutant." BOD, suspended solids, pH, fecal coliform bacteria, and additional pollutants as are now, or may be in the future, specified and controlled in the city's NPDES permit for its wastewater treatment plant.

(14) "Composite sample." A sample made by combining a number of grab samples collected over a defined period of time. A composite sample may be either a:

(a) Flow proportional composite sample. A sample composed of sample aliquots combined in proportion to the amount of flow occurring at the time of their collection. Such samples may be composed of equal aliquots being collected after equal predetermined volumes of flow pass the sample point or of flow proportional grab sample aliquots being collected at predetermined time intervals so that at least eight (8) aliquots are collected per twenty-four (24) hours; or

(b) Time proportional composite sample. A sample composed of equal sample aliquots taken at equal time intervals of not more than two (2) hours over a defined period of time.

(15) "Control authority." The City of Madisonville, Tennessee.

(16) "Cooling water." The wastewater discharged from any use, such as air conditioning, cooling, or refrigeration, to which the only pollutant added is heat.

(17) "Director." The director of the wastewater system of the city or his duly authorized agent or representative.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Domestic waste." The liquid and waterborne pollutants from the non-commercial preparation, cooking, and handling of food; or containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial establishments, industrial facilities, and institutions.

(20) "Environmental Protection Agency (EPA)." The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the recorder or other duly authorized official of said agency.

(21) "Flammable." Shall be defined in §§ 18-605(9)(a) and (9)(b).

(22) "FOG." Fats, oils, grease, and related substances of similar characteristics.

(23) "Food service establishment." A commercial or institutional facility discharging kitchen or food preparation wastewaters, such as restaurants, motels, hotels, cafeterias, delicatessens, meat cutting or preparation facilities, bakeries, hospitals, schools, bars, or any other facility that, in the city's discretion, may require a grease trap or interceptor installation by virtue of its operation.

(24) "Grab sample." A sample that is taken from a waste stream on a one-time basis and collected over a period of time not to exceed fifteen (15) minutes with no regard to the flow in the waste stream and without consideration of time.

(25) "Grease interceptor." A device utilized to effect the separation of grease and oils in wastewater effluent from a food service establishment. An interceptor is a vessel of the outdoor or underground type, normally of one thousand (1,000) gallon capacity or more, constructed of concrete, steel, or fiberglass.

(26) "Grease trap." A device utilized to effect the separation of grease and oils in wastewater effluent from a food service establishment. A trap is an under-the-counter or floor package unit, which is typically less than one hundred (100) gallons, constructed of steel or fiberglass.

(27) "Holding tank waste." Any waste from holding tanks, including by way of example but not limitation, vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trunks.

(28) "Incompatible pollutant." Any pollutant that is not a compatible pollutant, as defined in § 18-601(13).

(29) "Indirect discharge or discharge." The discharge or the introduction from any non-domestic source regulated under section 307(b), (c),

or (d) of the Act, (33 U.S.C. § 1317), into the wastewater system, including holding tank waste discharged into the wastewater system.

(30) "Industrial user." Any user of the wastewater system who discharges industrial waste, as that term is defined in § 18-601(31), into the wastewater system.

(31) "Industrial waste." The liquid and waterborne wastes resulting from processes or operations generated by industrial facilities beyond the character and content of typical domestic wastes.

(32) "Infiltration." The water entering sanitary sewers and building sewers from the soil through defective joints, broken or cracked pipe, improper connections, manhole walls, or other defects in sanitary sewers as defined in § 18-601(51) or building sewers as defined in § 18-601(7). Infiltration does not include and is distinguished from inflow.

(33) "Inflow." The water discharged into sanitary sewers and building sewers from such sources as downspouts, roof leaders, cellar and yard area drains, commercial and industrial discharges of unpolluted wastewater as defined in § 18-601(67), drains from springs and swampy areas, etc. It does not include and is distinguished from infiltration.

(34) "Interference." The inhibition or disruption of the city's wastewater treatment processes or operations, or acts or discharges that may cause damage to any portion of the wastewater system or that contribute to a violation of any requirement of the city's NPDES permit. The term includes interference with wastewater sludge use or disposal in accordance with state or federal criteria, guidelines, or regulations, or any state or federal sludge management plan applicable to the method of disposal or use employed by the wastewater system, such as, but not limited to, section 405 of the Act, the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), and the Clean Air Act.

(35) "May." Permissive.

(36) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and other wastes that may cause interference.

(37) "National Pollutant Discharge Elimination System permit (NPDES permit)." A permit issued pursuant to section 402 of the Act (33 U.S.C. § 1342) by the state under delegation from EPA.

(38) "Natural outlet." Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(39) "New source." Any discharge or proposed discharge of industrial/commercial waste for the first time into the wastewater system or a proposed significant change, as defined in § 18-606(3), in the character or volume of any industrial/commercial waste currently being discharged into the wastewater system.

(40) "Non-contact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(41) "Normal sewage." A waste having average concentrations of three hundred (300) mg/L of BOD or less and three hundred (300) mg/L of Total Suspended Solids (TSS) or less as determined by samples taken before entering the wastewater system.

(42) "Pass through." A discharge that exits the wastewater treatment plant into waters of the state in quantities or concentrations that, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the NPDES permit.

(43) "Person." Any individual, firm, company, partnership, corporation, association, group, or society, and includes the State of Tennessee and agencies, districts, commissions, and political subdivisions created by or pursuant to state law. Where used herein, the masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

(44) "pH." A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter (g/L) of solution.

(45) "Pollutant." Any "waste" such as dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(46) "Pretreatment." The reduction in the amounts of pollutants, the elimination of pollutants, the alteration of the nature of pollutants, or the alteration in the nature of pollutant properties in wastewater to a less harmful state prior to discharging or otherwise introducing such pollutants into the wastewater system.

(47) "Pretreatment standard." Prohibited discharge standards.

(48) "Properly shredded garbage." The organic waste resulting from the preparation, cooking, and dispensing of foods that have been shredded to such degree that all particles will be carried freely under flow conditions normally prevailing in sanitary sewers with no particle being greater than one-half inch (1/2") in any dimension.

(49) "Public sewer." A sewer that is controlled by the city.

(50) "Receiving stream." That body of water, stream, or watercourse receiving the discharge from a wastewater treatment plant.

(51) "Sanitary sewer." A public sewer controlled by the city that carries liquid and waterborne waste from residences, commercial establishments, industrial facilities, or institutions, together with minor quantities of ground and surface waters that are not intentionally admitted.

(52) "Septage." Liquid and solid waste pumped from a sanitary sewage septic tank or cesspool.

(53) "Sewer." A pipe or conduit for carrying wastewater.

(54) "Sewer System Overflow (SSO)." An unintentional occurrence where wastewater discharges from the wastewater system to the surrounding ground surface or to the waters of the state.

(55) "Shall." Mandatory.

(56) "Significant Industrial User (SIU)." Any industrial user discharging to the sewerage system who:

(a) Has an average daily process wastewater flow of twenty-five thousand (25,000) gallons or more;

(b) Has a wastewater discharge that is greater than five percent (5%) of the capacity (i.e., allowable load) of the city's wastewater treatment plant;

(c) Is required to meet a federal categorical pretreatment standard; or

(d) Is found by the city, the approval authority, or EPA to have significant impact, either singly or in combination with other contributing industries, on the wastewater system, the quality of sludge, the system's effluent quality, or air emissions generated by the wastewater system.

(57) "Slug." Any discharge of wastewater for any duration during which the rate of flow or concentration of any constituent increases to such magnitude so as to adversely affect the operation of the wastewater system or the ability of the wastewater treatment plant to meet applicable water quality objectives and NPDES permit compliance.

(58) "Standard methods." The analytical procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, or "EPA Methods for Chemical Analysis of Water and Wastes." All procedures must conform to 40 C.F.R. part 136.

(59) "State." The State of Tennessee.

(60) "Storm sewer or storm drain." A sewer that carries storm and surface waters and drainage, but that excludes wastes.

(61) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting there from.

(62) "Strength of waste." The concentration of pollutants or substances contained in a wastewater.

(63) "Total Suspended Solids (TSS)." The total solid matter that either floats on the surface of or is suspended in wastewater and that is removable by laboratory filtration.

(64) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in federal or state law or regulations promulgated by EPA or the state.

(65) "Twenty-five percent (25%) rule." All grease traps and grease interceptors shall be cleaned when the accumulation of floatable FOG plus the

depth of settled solids has reached a depth of no greater than twenty-five percent (25%) of the total operating vessel depth.

(66) "Unpolluted wastewater." Wastewater not containing any pollutants limited or prohibited by the effluent standards in effect, or wastewater that will not cause any violation of receiving water quality standards when discharged.

(67) "Upset of pretreatment facilities." An exceptional incident in which there is an unintentional and temporary noncompliance with the effluent limitations of the user's permit because of factors beyond the reasonable control of the user. An upset does not include noncompliance caused by operational error, improper design or inadequate treatment facilities, lack of preventive maintenance, or careless or improper operations.

(68) "User." Any person or facility who discharges, causes, or permits the discharge of wastewater into the wastewater system.

(69) "Waste." Any physical, chemical, biological, radioactive, or thermal material, which may be a solid, liquid, or gas, and that may be discarded from any industrial, municipal, agricultural, commercial, institutional, or domestic activity.

(70) "Wastewater." The liquid and water-carried commercial, industrial, institutional, or domestic wastes from dwellings, commercial establishments, industrial facilities, and institutions together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is discharged into or permitted to enter the city's wastewater system.

(71) "Wastewater system." All facilities for collecting, pumping, transporting, treating, and disposing of wastewater.

(72) "Wastewater treatment plant." The facilities of the city for treating and disposing of wastewater.

(73) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state of any portion thereof. (as added by Ord. #08-139-0, Oct. 2008, and amended by Ord. 11-174-0, March 2011)

18-602. Use of public sewers 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 city or in any area under the jurisdiction of the city, any wastewater, human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the city, or any area under the jurisdiction of the city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this ordinance.

(3) Except as provided herein, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, property, or right-of-way in which there is now located, or may in the future be located, a public sewer of the City of Madisonville, is hereby required at his expense to install suitable sanitary facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after the date of official notice from the city to do so, provided that said public sewer abuts the real property. (as added by Ord. #08-139-0, Oct. 2008)

18-603. Private wastewater disposal. (1) Where any residence, office, commercial, industrial, or recreational facility, or other establishment used for human activity is not accessible to a public sewer, the property owner shall provide a private sewage disposal system.

(2) Where the building drain of any residence, office, commercial or recreational facility, or other establishment used for human activity is below the elevation to obtain a one percent (1%) grade in the building sewer, but is otherwise accessible to a public sewer, the property owner shall provide a private sewage pumping station, unless the property is located in an area where the city is providing pumping stations as part of its wastewater system.

(3) A private wastewater disposal system may not be constructed within the city limits unless and until a certificate is obtained from the director stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the property to be served is less than seven thousand five hundred (7,500) square feet.

(4) Any private wastewater disposal system must be constructed in accordance with the requirements of the state, the appropriate county health department, and the city and must be inspected and approved by the authorized representative of the appropriate county health department.

(5) The property owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times.

(6) When a public sewer becomes available, the building sewer shall be connected to such public sewer within ninety (90) days of the date of notice from the city to do so, and the private wastewater disposal system shall be abandoned by cleaning the sludge from the tank, cracking or drilling the tank bottom foundation, and filling the tank with suitable compacted material, such as soil or gravel.

(7) Holding tank waste, septage, and any other waste from private wastewater disposal systems within the city shall be discharged into the wastewater system only under the following conditions:

(a) Persons owning or operating vacuum-pump trucks or trucks hauling septage or other liquid waste transport trucks shall not discharge wastewater directly or indirectly from such trucks into the wastewater system unless such persons shall have first applied for and received a permit for such discharge from the city. All applicants for such permit shall complete such forms as required by the city, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the city. The owners or operators of such vehicles shall affix and display their permit number on the sides of vehicles used for such purposes. Such permit shall be valid for a period of five (5) years from date of issuance, provided that such permit shall be subject to revocation by the city for violation of any provision of this ordinance or reasonable regulation established by the city. Such permit shall be limited to the discharge of wastewater containing waste from private disposal systems. The director shall designate the locations and times where such trucks may discharge, and may refuse to accept any truckload of waste in his absolute discretion where he determines that the waste could cause interference with the effective operation of the wastewater system.

(b) No person shall discharge any other holding tank waste or any other waste, including industrial waste, into the wastewater system unless he shall have applied for and been issued a permit by the city. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, the limitations of wastewater constituents, and characteristics of the permit issued by the city. The discharge of hazardous waste, as defined in section 1004 of RDRA as codified in 40 C.F.R. part 261, into a public sewer or to the headworks of the wastewater treatment plant is prohibited.

(c) Notwithstanding any of the forgoing, no holding tank waste, septage, or any other waste from outside the city shall be discharged directly or indirectly into the wastewater system from vacuum-pump trucks, septage hauling trucks, or other liquid waste transport trucks, provided, however, that the director may, in his absolute discretion, permit the discharge of such waste by agreement and in accordance with § 18-603(7).

(d) No person shall operate a dumping station for the discharge of wastewater from recreation vehicles into the wastewater system unless the user of the dumping station shall have first applied for and received a permit from the city. All applicants for such permits shall complete

such forms as required by the city, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the city. These permits shall be issued only for approved facilities designed to receive wastewater only.

(8) Nothing in this section shall be construed to free waste haulers from additional requirements that may be imposed by other local or state agencies. (as added by Ord. #08-139-0, Oct. 2008)

18-604. Building sewers and connections. (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb a public sewer or appurtenances thereof without first obtaining written approval from the director.

(2) The person requesting any action described in § 18-604(1) shall make application on the appropriate form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the director. An application fee shall be paid by all new applicants, including transferals. The application fee shall be nonrefundable. Applicants for industrial building sewer permits shall provide a description of the constituents of the wastewater and all other information that may be requested by the city.

(3) All residential, commercial, and industrial users to whom a public sewer is accessible shall connect to the sewer as provided in § 18-602(4) following payment of all fees and charges associated with such connection. Residential, commercial, and industrial users will be charged based on the number of individual units to be served, regardless of whether the complex is to be used as apartments, retail shops, duplexes, or multiple businesses. There will be one (1) sewer bill for each individual unit to be served. The user charge for monthly sewer use shall be based on the sewer rate schedule adopted and current as of the date of the connection. In addition, the city shall not be responsible for any cost that a developer may incur in the installation of public sewers.

(4) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the user. The user shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Connection to public sewers shall be made only by a plumber, contractor, or individual duly licensed and authorized in writing by the director. Such authorization will in no way waive any requirement of this ordinance, nor is such approval by the city to be construed as a guarantee of performance for said plumber, contractor, or individual.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination by the director, to meet all requirements of this ordinance.

(6) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the public sewer at a

grade of one percent (1%) or more is possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the public sewer, adequate precautions, by installation of check valves or other backflow prevention devices, to protect against flooding shall be provided by the owner of said building. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be pumped to the building sewer as approved by the director at the expense of the owner of the building.

(7) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer that in turn is connected directly or indirectly to a public sewer. No person shall cover, construct, build, or erect any structure that will interfere with the accessibility, service, or removal of any sewer appurtenance that is maintained by the city. If an obstruction is found upon inspection by city personnel, the responsible party shall be notified immediately that the obstruction is to be removed permanently within a specified time limit as determined by the director. The responsible part includes, but is not restricted to, owner, leaseholder, contractor, developer, and person(s) who are using or causing a discharge into the public sewer. A violation of this subsection shall be punishable by fine, upon conviction as authorized by law, and each day shall constitute a separate offense.

(8) The connection of a building sewer into the public sewer shall conform to the rules, regulations, policies, and standards of the city. All such connections shall be made gas-tight and watertight as verified by proper testing.

(9) The applicant for the building sewer shall notify the director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the director or his authorized representative.

(10) At least one (1) cleanout shall be provided for each building sewer. The cleanout shall be located as near to the building as possible. Additional cleanouts are recommended at any horizontal change in direction in the building sewer requiring a forty-five degree (45°) or greater bend.

(11) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(12) Destruction or malice to any city-owned appurtenances, pumps, or lines shall be the responsibility of the owner. A charge for replacement of said equipment and associated labor shall be rendered.

(13) Upon review by the city and director, a service charge may be imposed on any commercial or residential user for foreign material, such as, but not limited to, plastic, cloth, metal, wood, etc., or breakage of the pump station.

(14) A service charge may be imposed if the director determines that abuse or neglect of a wastewater disposal device has occurred by the owner,

whether it is the cleaning or repair of a pit or other appurtenance of the city that was taken out of service or abused by the owner of said property.

(15) Upon the inspection of property, if the city finds breakage, abuse, or leakage of service lines from buildings to the city equipment or lines, the city shall give the owner time to correct the problem as determined by the director. If the problem is not corrected within a specified period, the city shall have the right to repair and charge the owner for corrections or discontinue water service. (as added by Ord. #08-139-0, Oct. 2008)

18-605. Excluded wastes. General prohibitions. The following general prohibitions apply to all users of the wastewater system:

(1) All users shall take all reasonable steps to prevent any discharge in violation of the user's permit and this ordinance. Pollutants, substances, wastewater, or other wastes prohibited by this ordinance shall not be processed or stored in such a manner that they could be discharged to the wastewater system.

(2) No user shall increase the use of potable or process water or in any other way attempt to dilute the discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the user's permit.

(3) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater that causes interference or pass through with the operation or performance of the wastewater system.

(4) All users operating food service establishments may, at the discretion of the director, be required to provide Fats, Oils, and Grease (FOG) interceptors or traps for the proper handling of liquid waste containing FOG or other harmful ingredients. All interceptors or traps shall be of a type and capacity approved by the city, and shall be located so as to be readily and easily accessible for cleaning and inspection. All interceptors or traps shall be supplied and properly maintained for continuous, satisfactory, and effective operation by the user at his expense.

(5) The discharge of any hazardous material, listed in 40 C.F.R. part 261, is expressly forbidden.

(6) All users shall comply with the general prohibitive discharge standards in 40 C.F.R. part 403.5 (a) and (b) of the Federal Pretreatment Regulations.

(7) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters in any public sewer.

(8) Prohibited wastes. No user shall discharge or deposit any of the following materials, waste materials, waste gases, or liquids into any public sewer forming a part of the city's wastewater system, except where these may constitute occasional, intermittent inclusions in the wastewater discharged from residential premises:

(a) Any wastewater having a temperature that will inhibit biological activity in the wastewater treatment plant or result in other interference with the treatment process, but in no case wastewater with a temperature that exceeds sixty degrees (60°) C (one hundred forty degrees (140°) F) at its introduction into the wastewater treatment plant.

(b) Visible floatable Fats, Oils, or Grease (FOG) of animal or vegetable origin in concentrations greater than fifty (50) mg/L or in amounts that, in the discretion of the director, may cause interference or pass through.

(c) Visible floatable petroleum oil, cutting oil, or products of mineral origin in amounts that, in the discretion of the director, may cause interference or pass through.

(d) Substances that will solidify or become viscous at temperatures between zero degrees (0°) C (thirty-two degrees (32°) F) and sixty degrees (60°) C (one hundred forty (140°) F).

(e) Any garbage that has not been properly shredded so that no particles are any greater than one-half inch (1/2") in any dimension.

(f) Any waste capable of causing abnormal corrosion, abnormal deterioration, damage, or hazard to structures or equipment of the wastewater system or to humans or animals, or cause interference with proper operation of the wastewater treatment plant. All waste discharged to the wastewater system must have a pH value in the range of six (6) to ten (10) standard pH units. Prohibited materials include, but are not limited to, concentrated acids and alkalies; high concentrations of compounds of sulfur, chlorine, and fluorine; and substances that may react with water to form strongly acidic or basic products.

(g) Any waste having a color that is not removable by the existing wastewater treatment processes and that would cause the plant effluent to exceed color requirements of the State of Tennessee for discharge to the receiving stream, if applicable.

(9) Specific prohibited wastes. No user shall discharge or deposit any of the following materials, waste materials, waste gases, or liquids into any public sewer forming part of the city wastewater system.

(a) Pollutants that create a fire or explosive hazard, including, but not limited to, waste streams with a closed cup flash point of less than sixty degrees (60°) C (one hundred forty (140°) F) using the test methods specified in 40 C.F.R. 261.21.

(b) Any liquids, solids, or gases that 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 way to the wastewater system or to the operation of the wastewater system. At no time shall two (2) successive readings (fifteen (15) to thirty (30) minutes between readings) on an explosion hazard meter at the point of discharge into the wastewater system be more than five percent (5%), nor

any single reading over ten percent (10%), of the Lower Explosive Limit (LEL) of the meter. Prohibited materials covered by this subsection include, but are not limited to, gasoline, kerosene, naptha, benzene, fuel oil, motor oil, mineral spirits, commercial solvents, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, and hydrides.

(c) Any trucked or hauled pollutants, except at discharge point(s) designated by the director in accordance with § 18-603 of this chapter.

(d) Any solid or viscous substances in quantity or character capable of causing obstruction to flow in public sewers, interference with proper operation of the city's wastewater system, or risks to the health and safety of the city's personnel. Prohibited materials covered by this subsection include, but are not limited to, eggshells from egg processors, ashes, cinders, ceramic waste, stone or marble dust, sand, mud, straw, shavings, grass clippings, thread, glass, glass grinding or polishing wastes, rags, metal, feathers, bones, tar, plastics, wood, paunch manure, insulation materials, fibers of any kind, stock or poultry feeds, processed grains, spent hops, animal tissues, hair, hides, or fleshings, entrails, whole blood, viscera or other fleshy particles from processing or packing plants, lime or similar sludges, and residues from refining or processing of fuel or lubricating oils.

(e) Any noxious or malodorous solids, liquids, or gases that, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life or are or may be sufficient to prevent entry into a sewer for maintenance and repair.

(f) Any pollutants that result in the presence of toxic gases, vapors, or fumes within the wastewater system in a quantity that may cause worker health and safety problems.

(g) Any substances that may cause wastewater treatment plant effluent, or any other products of the wastewater system such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to cause interference with the reclamation process. In no case shall a substance discharged to the wastewater system cause the wastewater system to be in noncompliance with sludge use or disposal criteria, guidelines, ordinances, or regulations developed by local, state, or federal authorities.

(h) Any wastewater containing pollutants, including oxygen-demanding pollutants (BOD, etc.), in sufficient quantity, flow, or concentration (either singly or by interaction with other pollutants) to cause interference with the wastewater treatment plant.

(i) Any substance that will cause the sewerage system to violate its NPDES permit or water quality standards of the receiving stream.

(j) Any waste that, by interaction with other waste in the wastewater system, may release obnoxious gases, form suspended solids that cause interference with operation of the public sewer, or create conditions deleterious to structures and wastewater treatment processes.

(k) Any form of inflow as defined by § 18-601(33), including stormwater.

(l) Infiltration determined to be excessive by the director.

(m) Any unpolluted wastewater as defined by § 18-601(66), except as specifically permitted by the director.

(10) Specific pollutant limitations. No user shall discharge into any public sewer forming part of the city wastewater system any of the following materials in concentrations exceeding the limits stated below:

(a) Any wastes that contain more than ten (10) mg/L of hydrogen sulfide, sulfur dioxide, or nitrous oxide.

(b) Any toxic or poisonous substance or any other materials in sufficient quantity to cause interference with the operation of the city's wastewater treatment plant, to constitute a hazard to humans or animals, or to cause a violation of the water quality standards or effluent standards for the watercourse receiving the effluent from the wastewater treatment plant, or to exceed limitations established by the director or set forth in applicable pretreatment standards as referenced in the Code of Federal Regulations 40 C.F.R. 403.

(c) Any waste containing suspended solids of such character and quantity that unusual provisions, attention, or expense is required to handle such materials at the city's wastewater treatment plant.

(d) Any waste containing quantities of radium or naturally occurring or artificially produced radioisotopes in excess of presently existing or subsequently accepted limits for drinking water as established by current drinking water regulations promulgated by EPA.

(e) No person shall discharge wastewater containing concentrations of the constituents listed below in excess of the upper limits listed below.

(i) No person with a permit to discharge industrial/ commercial waste shall discharge in excess of the following limits unless such discharge is specifically authorized in a duly issued permit to discharge industrial/commercial waste. If more stringent standards are established in a city permit to discharge industrial/commercial waste or have been promulgated by the state or EPA in applicable categorical pretreatment standards, those standards shall supersede the following standards.

Protection Criteria

Parameter	Monthly Average mg/L*	Daily Maximum mg/L*
Chromium, hexavalent	1.0	70
Chromium, trivalent	N/A	2200
Nickel	56	52
Cyanide	3.5	52
Zinc	47	180
Cadmium	0.012	1.5
Copper	20	30
Iron	1500	3000
Antimony	1600	9000
Arsenic	40	440
Lead	0.75	74
Mercury	0.02	4.1
Selenium	35	260
Silver	0.6	1.2
Phenols	N/A	300

*Milligram/Liter

These limits are established to comply with published thresholds or ranges for inhibitory effects on the unit operations of the treatment plant. Limits on the concentrations of other metallic constituents and/or toxic substances that may have a detrimental effect on the wastewater treatment plant may be established by the director and/or the state, unless the prospective discharger can prove to the aforementioned parties that such substances are amenable to treatment at the treatment plant. The concentrations listed for the specific pollutants in this paragraph are daily average maximum concentrations in mg/L based on twenty-four (24) hour flow proportional composite samples. The city shall monitor the wastewater treatment plant for each parameter in the above table. In the event that the influent of the wastewater treatment plant reaches or exceeds the level established by this table, the director shall initiate technical studies to determine the cause of the violation and shall recommend to the city the necessary legal measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels.

(ii) Unless specifically authorized by a permit to discharge industrial/commercial waste, no person shall discharge wastewater continuing concentrations of the constituents listed in § 18-605(5) in excess of levels currently established for wastewater in the city. Such concentration levels shall be established by the director.

(f) The admission into the wastewater system of any waste having a Biochemical Oxygen Demand (BOD) in excess of three hundred (300) mg/L on a twenty-four (24) hour composite basis or any single grab sample having a BOD concentration in excess of one thousand three hundred (1,300) mg/L may be subject to review by the director. Where necessary, in the discretion of the director, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the BOD to meet requirements specified by the director.

(g) The admission into the wastewater system of any waste having a Total Suspended Solids (TSS) concentration in excess of three hundred (300) mg/L on a twenty-four (24) hour composite basis or for any single grab sample having a TSS concentration in excess of one thousand three hundred (1,300) mg/L will be subject to review by the director. Where necessary, in the discretion of the director, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the TSS content to meet requirements specified by the director.

(h) The admission into the wastewater system of any waste having a total oil and grease (combined polar and non-polar) content in excess of one hundred twenty-five (125) mg/L. If the waste stream is of mineral hydrocarbons (non-polar), the content shall not exceed one hundred (100) mg/L. If the waste stream is of biological lipids (polar), the content shall not exceed one hundred fifty (150) mg/L. Where necessary, in the discretion of the director, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the oil and grease (polar and non-polar) content to meet requirements specified by the director.

(i) The admission into the wastewater system of any waste in volumes or with constituents such that existing conditions in the public sewer or at the city's wastewater treatment plant would be affected to the detriment of the wastewater system will be subject to review by the director. Where necessary, in the discretion of the director, pretreatment or equalizing units may be required to bring constituents or volumes of flow within the limits previously prescribed or to an otherwise acceptable level and to hold or equalize flows so that no peak flow conditions may hamper the operation of any unit of the wastewater system. Said equalization or holding unit shall have a capacity suitable to serve its

intended purpose and be equipped with acceptable outlet control facilities to provide flexibility in operation and accommodate changing conditions in the waste flow.

(j) If any federal categorical pretreatment standards are more stringent than limitations imposed by this ordinance, the federal categorical pretreatment standards shall immediately supersede the limitations imposed under this ordinance. All affected users shall notify the director of the applicable reporting and monitoring requirements imposed by the federal standards within thirty (30) days of passage.

(k) State requirements and limitations shall apply in any case where they are more stringent than federal requirements and limitations or those of this ordinance.

(l) The city reserves the right to establish more stringent limitations or requirements on discharges to the wastewater system.

(11) Standards and requirements for food service establishments. Food service establishments, as defined in § 18-601(23), shall provide means of preventing grease and oil discharges to the wastewater system. Where a grease and oil interceptor currently exists or is required by the city, it shall be maintained for continuous, satisfactory, and effective operation by the owner, leaseholder, or operator at his expense. Grease and oil interceptors shall be of a type and capacity approved by the city and shall be located as to be readily accessible for cleaning and inspection.

(a) All food service establishments shall have grease-handling facilities approved by the city. Establishments whose grease-handling facilities or methods are not adequately maintained to prevent Fats, Oils, or Grease (FOG) from entering the wastewater system shall be notified in writing by the director of any noncompliance and required to provide a schedule whereby corrections will be accomplished.

(b) All food service establishments' grease-handling facilities shall be subject to review, evaluation, and inspection by the city's representatives during normal working hours. Results of inspections will be made available to the owner or operator. The city may make recommendations for correction and improvement.

(c) Each facility will be issued a grease interceptor/trap maintenance log upon initial inspection. Failure to maintain a log shall constitute a violation of this ordinance.

(d) Food service establishments receiving two (2) consecutive unsatisfactory evaluations or inspections shall be subject to penalties or other corrective actions as provided for in this ordinance. Two (2) consecutive satisfactory inspections need to be conducted to bring the facility into compliance.

(e) Food service establishments that continue to violate the city's grease standards and requirements shall be subject to additional enforcement action, including termination of service.

(f) Food service establishments whose operations cause or allow excessive FOG to discharge or accumulate in the city's collection system shall be liable to the city for costs related to city service calls for line blockages, line cleanings, line and pump repairs, etc., including all labor, materials, and equipment. If the blockage results in a Sewer System Overflow (SSO), and the city is penalized for the SSO, the penalty shall be passed along to the food service establishment.

(g) Regularly scheduled maintenance of grease-handling facilities is required to insure adequate operation. In maintaining the grease interceptors and/or grease traps, the owner, leaseholder; or operator shall be responsible for the proper removal and disposal of grease by appropriate means and shall maintain an on-site record of dates and means of disposal.

(h) All grease traps and/or grease interceptors shall be cleaned based on the twenty-five percent (25%) rule or when the discharge exceeds fifty (50) mg/L.

For example: If the Total Depth (TD) of the Grease Interceptor (GI) is forty inches (40"), the maximum allowable depth of floatable grease plus the depth of settled solids equals forty inches (40") multiplied by 0.25 or d = TD x 0.25 = 10 inches. Therefore, the maximum allowable depth of floatable grease plus the depth of settled solids in the vessel should not exceed ten inches (10").

(i) The exclusive use of enzymes, grease solvents, emulsifiers, etc., is not considered acceptable grease trap maintenance practice.

(j) Any food service establishment whose effluent discharge to the wastewater system is determined by the city to cause interference in the conveyance or operation of the wastewater system shall be required to sample the grease interceptor and/or grease trap discharge and have it analyzed for FOG at the expense of the owner, leaseholder, or operator. The city shall approve the sampling plan and shall witness the taking of the samples. The analyses shall be performed by a certified laboratory and the report of such analyses shall be provided to the city.

(k) All grease interceptors and/or grease traps shall be designed and installed to allow for complete access for inspection and maintenance of the inner chamber(s) and viewing and sampling of effluent wastewater discharged to the public sewer. These chambers shall not be visually obscured with soil, mulch, floorings, or pavement of any material.

(l) Food service establishments shall adopt Best Management Practices (BMPs) for handling sources of floatable FOG originating within their facility. A notice shall be permanently posted at a prominent place in the facility advising employees of the BMPs to be followed. The city may render advice regarding the minimization of waste.

(m) Food service establishments shall develop and implement a waste minimization plan pertaining to the disposal of FOG and food

particles. The city may render advice or make suggestions regarding the minimization of waste.

(12) Construction standards for new food service establishments. All new food service establishments shall be required to install an outdoor grease interceptor, the design and location of which must be approved in writing by the city prior to installation.

(a) Grease interceptors shall be adequately sized, with no interceptor less than one thousand (1,000) gallons total capacity unless otherwise approved by the city.

(b) The inlet chamber of the vessel will incorporate a PVC open sanitary tee that extends equal to or greater than twelve inches (12") below the water surface. The outlet chamber of the vessel will incorporate a PVC open sanitary tee that extends two-thirds (2/3) below the water surface. The sanitary tees (both inlet and outlet) will not be capped, but opened for visual inspection of the waste stream.

(c) All grease interceptors, whether singular or two (2) tanks in series, must have each chamber directly accessible from the surface to provide means for servicing and maintaining the interceptor in working and operating condition.

(d) All pot and pan wash, pre-rinse sinks, and scullery and floor drains will connect and discharge to the grease interceptor.

(e) Where automatic dishwashers are not installed, the discharge from those units will discharge directly into the building drainage system without passing through a grease trap, unless otherwise directed by the city.

(f) Where automatic dishwashers are installed, the discharge from those units will discharge directly into the grease interceptor, before entering the building drainage system.

(g) The pre-rinse sink of the automatic dishwasher will discharge directly into the grease interceptor and/or grease traps.

(h) Where food waste grinders are installed, the waste from those units shall discharge directly into the building drainage system without passing through grease interceptor and/or grease traps.

(i) The grease trap is to be installed at least fifteen feet (15') from the last drainage fixture, except as may be approved by the director.

(j) The grease interceptor is installed at least nine feet (9') from the exterior wall, except as may be approved by the director.

(k) The grease interceptor is not to be installed within a drive-through pick-up area, underneath menu boards, or in the vicinity of menu boards.

(l) A grease trap may be installed in lieu of a grease interceptor, at the discretion of the city. This determination will be based on engineering concepts that dictate the grease interceptor installation

is not feasible. The design and location of the grease trap must be approved in writing prior to installation by the city.

(m) The gallonage capacity of a grease trap shall be equal to or greater than double the gallonage capacity of all drainage fixtures discharging to the grease trap. These fixtures and other potentially grease-containing drains connecting to the grease trap will be determined and approved by the city prior to installation.

(n) No new food service establishments will be allowed to initiate operations until all grease-handling facilities are approved, installed, and inspected by the city.

(o) A basket, screen, or other intercepting device shall prevent passage into the drainage system of solids one-half inch (1/2") or larger in size. The basket or device shall be removable for cleaning purposes.

(13) Construction standards for existing food service establishments. All existing food service establishments shall have grease-handling facilities. Food service establishments without any grease-handling facilities will be given a compliance schedule to have grease-handling equipment installed. Failure to do so will be considered a violation of this ordinance and shall subject the establishment to penalties and/or corrective actions. All new outdoor grease interceptors will comply with the standards in § 18-605 as well as the grease interceptor detail drawings and specifications at the end of § 18-605.

(a) In the event that an existing food service establishment's grease-handling facilities are either under-designed or substandard in accordance with this ordinance, the owner(s) will be notified in writing of the deficiencies and required improvements and given a compliance schedule.

(b) For cases in which outdoor grease interceptors are infeasible to install, existing food service establishments will be required to install approved under-the-counter grease traps.

(c) Factory-installed flow control fittings must be provided to the inlet side of all under-the-counter grease traps to prevent overloading of the grease trap and to allow for proper operation.

(d) City approval of grease trap design will be obtained prior to installation.

(e) The location of under-the-counter units must be determined and approved by the city prior to installation.

(f) Wastewater from garbage grinders should not be discharged to grease interceptors.

(g) Wastewater from automatic dishwashers should be discharged to grease interceptors.

(h) Wastewater from the pre-rinse sink of the automatic dishwasher shall discharge directly into grease interceptors.

(i) In maintaining grease interceptors, the owner(s) shall be responsible for the proper removal and disposal of captured material and shall maintain records of the dates and means of disposal.

(j) The exclusive use of enzymes, grease solvents, emulsifiers, etc., is not considered acceptable grease trap maintenance practice. All grease interceptors must be cleaned based on the twenty-five percent (25%) rule. (as added by Ord. #08-139-0, Oct. 2008, and amended by Ord. #11-174-0, March 2011)

18-606. Industrial/commercial wastewater discharge permits.

(1) Unauthorized connections to sewerage system. No person(s) shall uncover, make any connections with or opening into, use, alter, or disturb the wastewater system without first obtaining written approval from the city.

(2) Permits to discharge industrial/commercial waste for new sources. Any person who proposes to originate the discharge of any industrial waste or commercial waste for the first time into the wastewater system or who proposes to make a significant change in the character or volume of any industrial waste or commercial waste theretofore discharged into the wastewater system:

(a) Shall apply to the city for a permit to discharge industrial/ commercial waste on a form furnished by the city a minimum of one hundred eighty (180) days prior to the proposed date to originate this discharge into the city wastewater system;

(b) Shall supplement the application, signed by the authorized representative as specified in § 18-601(4), with any information that may have been furnished by the applicant to any other governmental agency and any other plans or data as the director may require for purposes of determining whether conditions are met as specified in § 18-606(6); and

(c) Shall not discharge into the wastewater system until a permit to discharge industrial/commercial waste has been issued by the city for the proposed new source.

(3) Significant changes in waste discharge. A significant change in the character or volume of waste, for purposes of § 18-606(2), shall be deemed to be proposed if:

(a) Substances, compounds, and elements not previously constituting any part of a user's waste are to be introduced into such waste;

(b) If the average concentration of any substance, compound, or element in the waste or average volume proposed to be discharged will increase by twenty-five percent (25%) or more over that for which the permit had been issued;

(c) If the change in character or volume of the waste will change the user's classification from industrial user to significant industrial user as defined in § 18-601(56).

(4) Permits to discharge industrial/commercial waste for existing industrial users. Any user, who is operating within the city and is classified an industrial user or commercial user, within the meaning of §§ 18-601(12) or 18-601(31), may continue such discharge until notified by the director in writing that a permit will be required and until an application has been submitted to and denied by the director in accordance with the following provisions:

(a) The director shall issue written notices to existing industrial/commercial users specifying in each such notice the time within which an existing industrial/commercial users shall file an application for a permit.

(b) Within the time limit specified in § 18-606(4)(a), the existing industrial/commercial user shall file the required application, signed by the authorized representative as specified in § 18-601(4), together with any other information as described in § 18-606(6). Failure to file within the specified time shall constitute an unauthorized use of the wastewater system. The director, within one hundred eighty (180) days, must deny the required application or issue a draft of the proposed permit.

(c) The existing industrial/commercial user shall have thirty (30) days in which to comment on the draft permit after which the permit will be issued or denied.

(d) An existing industrial/commercial user may continue to discharge, only after complying with the requirement to file an application for a permit, unless and until receipt by the applicant of a written notice specifying the reasons for denial of a permit and specifying what remedial action, if any, must be taken to qualify the applicant for a permit.

(e) In the event that the applicant is denied a permit or feels that the conditions of a permit are unacceptable, the applicant shall have the right to contest the denial or the conditions of the permit in accordance with the provisions of § 18-615(3) of this ordinance.

(5) Discharge prohibited where permits denied. In any case where a final determination has been made denying a permit, it shall be unlawful for any person so denied a permit to discharge industrial/commercial waste into the wastewater system.

(6) Conditions for issuing or renewing permits. A permit to discharge industrial/commercial waste will be issued or renewed by the city only when it has been determined that:

(a) Wastewater capacity is available at the proposed point of discharge for receiving the industrial/commercial waste;

(b) The waste being discharged, or proposed to be discharged, is amenable to treatment by the processes employed in the city's wastewater treatment plant and will not impair the ability of the city to comply with the water quality standards and effluent limitations established by the state and federal regulatory agencies;

(c) The waste being discharged or proposed to be discharged will not cause damage to the wastewater system or create a public nuisance or threaten public health;

(d) The concentrations of substances, compounds, and elements in the waste being discharged or proposed to be discharged do not exceed the limits established by the city or state or federal authorities; and

(e) Where the wastewater contains or may contain any substances, compounds, or elements controlled or limited by this ordinance, an adequate program of self-monitoring of flow and wastewater characteristics will be established and maintained by the user affected by this ordinance to assure that the discharge meets the requirements of this ordinance and any permit conditions. The frequency and nature of the analyses shall be commensurate with the nature and volume of the waste discharged, and shall be as specified in the permit to discharge industrial/commercial waste.

(7) Permits for industries subject to national categorical pretreatment standards. Any user subject to a newly promulgated national categorical pretreatment standard shall reapply for a permit to discharge industrial waste within one hundred eighty (180) days after the effective date of the applicable national categorical pretreatment standard. Permits to discharge industrial waste of users subject to such standards shall be issued or reissued in compliance with such standards within the time frames prescribed by such standards.

(8) Permit provisions. A permit to discharge industrial/commercial waste shall be expressly subject to all provisions of this ordinance. Permits may contain the following:

(a) Limits on average and maximum wastewater constituents and characteristics. The director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards, as defined in § 18-601(48), or requirements or in other cases where the composition or mass limitations are appropriate;

(b) Limits on average and maximum rates and time of discharge or requirements for flow regulation and equalization;

(c) Requirements for installing and maintaining inspection and sampling facilities;

(d) Specifications for monitoring programs that may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedules;

(e) Compliance schedules;

(f) Requirements for submitting technical reports or discharge reports to the director pursuant to § 18-611 of this ordinance;

(g) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording the city's access thereto;

(h) Requirements for notifying the city of any new introduction of wastewater constituents or any significant change in the volume or character of the wastewater constituents being introduced into the wastewater system;

(i) Requirements for notifying the city of accidental discharges and slug discharges pursuant to §§ 18-607 and 18-608 of this ordinance; and

(j) Other conditions as deemed appropriate by the city to ensure compliance with this ordinance and applicable law and regulations.

(9) Permit conditions and duration. A permit to discharge industrial/commercial waste shall be issued as follows:

(a) An application for permit to discharge industrial/commercial waste and all reports or information submitted pursuant to the requirements of such permit must be signed and certified by an authorized representative of the user.

(b) A permit to discharge industrial/commercial waste for an industrial/commercial user, not classified as a Significant Industrial User (SIU) in accordance with § 18-601(56), shall remain in effect for a specified time period, not to exceed five (5) years.

(c) A permit to discharge industrial/commercial waste for an SIU shall be issued for a specified time period, not to exceed five (5) years. The user shall apply for a permit re-issuance a minimum of one hundred eighty days (180) prior to the expiration of the user's existing permit.

(d) The terms and conditions of a permit may be modified by the city during the term of the permit. A user shall be informed of any modifications in his permit at least thirty (30) days prior to the effective dates of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) A permit to discharge industrial/commercial waste does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

(f) The provisions of a permit to discharge industrial/ commercial waste are severable, and, if any provision of such permit or the application of any provision of such permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of such permit shall not be affected thereby.

(10) Permit transfers. A permit to discharge industrial/commercial waste is issued to a specified user for a specific operation. A permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any

succeeding owner or user shall also agree in writing to comply with the terms and conditions of the existing permit. (as added by Ord. #08-139-0, Oct. 2008)

18-607. Pretreatment. (1) Responsibility for pretreatment. Each user shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under § 18-606 of this ordinance and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in § 18-604 of this ordinance within time limitations as specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense.

(2) Authorization to construct. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the director for review and shall be approved by the director before construction of the facility.

(a) Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the director prior to the user's initiation of the changes.

(b) The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent discharge acceptable to the director under the provisions of this ordinance.

(3) Maintenance of pretreatment facilities. If pretreatment or control of industrial/commercial wastewater is required, such pretreatment or control facilities shall be constructed and maintained in good working order and properly operated as efficiently as possible by the owner or user at his cost and expense, subject to the requirements of this ordinance and all other applicable codes, ordinances, regulations, and laws.

(4) Additional pretreatment measures. Whenever deemed necessary, the director may require users to restrict their wastewater discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial/commercial waste streams, and such other conditions as may be necessary to protect the wastewater system and to determine the user's compliance with the requirements of this ordinance. Additionally:

(a) The director may require any person discharging into the wastewater system to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. An industrial/commercial wastewater discharge permit may be issued solely for flow equalization.

(b) Grease, oil, and sand interceptors shall be provided when, in the discretion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease, oil, or

sand, except that such interceptors shall not be required for residential users. All interceptors or traps shall be of a type and capacity approved by the director and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(c) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(5) Pretreatment for accidental discharge. To provide protection from accidental discharges as defined in § 18-601(2):

(a) Pollutants, substances, wastewater, or waste prohibited by this ordinance shall not be stored in such a manner that they could be discharged to the wastewater system.

(b) Each industrial/commercial user shall provide protection from accidental discharge of prohibited materials or other waste regulated by this ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection may be required to be submitted to the director upon request for review and approval. Review and approval of such plans and operating procedures shall not relieve the user of the responsibility to modify his facility as necessary to meet the requirements of this ordinance.

(c) If, after taking action as provided in § 18-607(5)(a), an industrial/commercial user fails to comply with any prohibition or limitation in this ordinance, the user responsible for such accidental discharge shall immediately notify the director so that any feasible corrective action may be taken to protect the wastewater system or to minimize adverse effects thereon. In addition, a written report, addressed to the director, shall be filed by an authorized representative of the user within five (5) days of the occurrence of the accidental discharge detailing the date, time, and cause of the accidental discharge, the quantity and characteristics of the accidental discharge, and corrective action taken to prevent future accidental discharges.

(d) A notice shall be permanently posted at a prominent place in the facility for which the permit has been issued advising employees whom to call in the event of an accidental discharge. Users shall ensure that all employees who observe or who may cause or suffer such an accidental discharge to occur are advised of the emergency notification procedure. (as added by Ord. #08-139-0, Oct. 2008)

18-608. Flow and concentration control. (1) Discharge of slugs prohibited. No user shall discharge into the city wastewater system any waste or wastewater that constitutes a slug as defined in § 18-601(57).

(2) Control of discharge rates. Any user now discharging or proposing to discharge waste that may include slugs may be required to provide facilities or adopt procedures for regulating, controlling, or equalizing the concentrations of any constituents or the rate of waste discharge.

(3) Spill control response plan/slug discharge plan. The city shall periodically evaluate whether each industrial/commercial user needs a spill control response plan or a discharge slug plan. The city may require any user to develop, submit for approval, and implement such a plan. Each plan shall address, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the city of any accidental discharge or slug discharge, as required by § 18-607(5)(c) of this ordinance; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response. (as added by Ord. #08-139-0, Oct. 2008)

18-609. Measurement of flow. (1) Determination of wastewater volumes. The volume or quantity of waste discharged by any user into the city's wastewater system may be measured by one (1) of more of the following methods:

(a) If the volume of water used by any user in industrial, commercial, or process operations is substantially the same as the volume secured from the public water system, then the volume of water purchased shall be considered to be the volume of waste discharged.

(b) If a substantial portion of the water secured from the public water system is not used in a user's facility or is not returned to the wastewater system, the quantity of waste shall be determined by one (1) or more of the following methods:

(i) By a flow meter(s) on the water supply line(s) to a process operation(s) or use;

(ii) By a flow meter(s) on the waste line(s) from an operation(s); or

(iii) If flow meters, as required under §§ 18-609(1)(b)(i) and (1)(b)(iii) above, shall not have been installed, the volume of water purchased shall be considered to be the volume of waste discharged unless the city approves an alternate method of

determining the amount of water discharged into the wastewater system.

(c) If any user now discharging or proposing to discharge waste into the wastewater system does not secure the entire water supply from the public water system, such user shall install and maintain a flow meter(s) on the waste line(s) from process operations or shall install such additional flow meters on the private water supply as required to permit determination of the total quantity discharged to the wastewater system from all sources under procedures comparable to §§ 18-609(1)(a) or (1)(b) above.

(2) Provision, calibration, and certification of flow meters. If flow meter(s) are installed to fulfill requirements of §§ 18-609(1)(b) or(1)(c) above:

(a) Such flow meter(s) shall be installed at user expense;

(b) Such flow meter(s) shall be calibrated by the supplier at the time of installation and thereafter at the discretion of the director;

(c) Such flow meter(s) are to be of the non-resettable style;

(d) Such flow meter(s) shall be calibrated by the supplier at the time of installation and thereafter at the discretion of the director;

(e) Annual certification of calibration shall be provided to the director within fifteen (15) days of each calibration for flow meters; and

(f) The director, at his discretion, may require calibration by an independent testing laboratory. If the meter is found to be in calibration, the city will pay for testing service. However, if the meter is found to be out of calibration, the user shall be required to pay for testing service.

(3) Identification of all flows required. All sources of water supply and all discharges of wastewater into the wastewater system must be identified in accordance with the provisions of § 18-609(1). Any omissions shall be considered as unauthorized use of the city wastewater system. (as added by Ord. #08-139-0, Oct. 2008)

18-610. Monitoring facilities. (1) General requirements for monitoring facilities. Any user who is discharging or proposes to discharge waste into the city wastewater system may be required to provide, operate, and maintain at the user's expense monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and internal drainage systems. These industrial/commercial monitoring facilities shall be as specified in the user's permit to discharge waste. The monitoring facilities should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facilities to be constructed in a public street or sidewalk area and located so that they will not be obstructed.

(2) Maintenance of monitoring facilities. There shall be ample room in or near such monitoring facilities to allow accurate sampling and preparation

of samples for analysis. The monitoring facilities shall be maintained at all times in a safe, accurate, and proper operating condition at the expense of the user.

(3) Continuous recording and sampling equipment. When deemed necessary by the director, continuous recording and sampling equipment shall be installed and maintained.

(4) Construction periods. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with city requirements and all applicable local construction standards and specifications. Construction of said facilities shall be completed within ninety (90) days following written notification by the city. Additional construction time may be granted at the discretion of the director.

(5) Additional facilities for present users. The director shall review monitoring facilities of present users and may require additional monitoring facilities as required for compliance with §§ 18-610(1), (2), and (3) above.

(6) Monitoring facilities for new users. New users may be required to provide monitoring facilities as specified in their permits to discharge industrial/commercial waste prior to start up. (as added by Ord. #08-139-0, Oct. 2008)

18-611. Inspections, monitoring, reporting, and records.

(1) Periodic inspections. The waste and other pollutants being discharged into the city wastewater system by users shall be subject to periodic inspection, sampling, records examination, and copying. Determinations of character and strengths of said waste may be made annually or more often as may be deemed necessary by the director or his authorized representatives and as indicated in the user's permit to discharge industrial/commercial waste to ascertain whether the purposes of this ordinance are being met, to determine whether all requirements are being complied with, and to determine strength of waste.

(2) Reporting requirements for applicable categorical standards. Pretreatment standards, as defined in § 18-601(40), are as follows:

(a) Baseline monitoring reports. 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 40 C.F.R. 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the city wastewater system shall submit to the director a report that contains the information listed in § 18-611(2)(b) below. At least ninety (90) days prior to commencement of their discharge, new sources, as defined in § 18-601(39), and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report that contains the information listed in § 18-611(2)(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) Baseline monitoring reports shall include:

(i) The name and address of the facility, including the name of the operator and owner;

(ii) A list of any environmental control permits held by or for the facility;

(iii) A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by a user. This description should include a schematic process diagram that indicates points of discharge to the wastewater system from the regulated processes;

(iv) Information showing the measured average daily and maximum daily flow, in gallons per day, to the wastewater system from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 C.F.R. 403.6(c);

(v) The categorical pretreatment standards applicable to each regulated process;

(vi) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-611(9) of this ordinance;

(vii) Sampling must be performed in accordance with procedures set out in § 18-611 of this ordinance;

(viii) A certification statement, reviewed by the user's authorized representative and certified by a qualified professional engineer, 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;

(A) 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. 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 § 18-611(3) of this ordinance; and

(B) All baseline monitoring reports must be signed and certified by an authorized representative of an industrial/commercial user as defined in § 18-601(4) of this ordinance.

(3) Compliance schedule progress reports. (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 director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the director.

(4) Reports on compliance with categorical pretreatment standards 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 wastewater system, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in § 18-611(2)(b) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-601(4) of this ordinance.

(5) Periodic compliance reports for significant industrial users.

(a) Significant industrial users may, at a frequency determined by the director, be required to submit a report indicating the nature and concentration of pollutants in the discharge that are limited by pretreatment standards and the measured or estimated average and

maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 18-601(4) of this ordinance;

(b) 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; and

(c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in § 18-611(9) of this ordinance, the results of this monitoring shall be included in the report.

(6) Reports of changed conditions. Each user must notify the director of any planned significant changes to the user's operation or system that might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition.

(7) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharge; discharge of a non-routine, episodic nature; a non-customary batch discharge; a slug load; and/or a discharge of any prohibited wastes as defined in § 18-605(3) that may cause potential problems for the wastewater system, the user shall immediately telephone and notify the director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless the requirement is waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the sewerage system, natural resources, or any other damage to other person or property; nor shall such notification relieve the user of any fines, penalties, or other liability that may be imposed pursuant to this ordinance; and

(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 § 18-611(7)(a) above.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the city within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation.

(9) Sampling, analyses, and reporting for all users. Samples shall be collected manually or mechanically over such periods of time and composited in such a manner as to be representative of the waste being discharged in accordance with requirements specified in the user's permit to discharge industrial/commercial waste. Sampling techniques and laboratory methods followed in the examination of said waste shall be in accordance with those set forth in 40 C.F.R. part 136, unless otherwise specified in applicable categorical pretreatment standard. Reports of the analyses shall be submitted in accordance with requirements specified in the user's permit to discharge industrial/commercial waste. If 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(a) Grab samples. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(b) Splitting of samples. When so requested by the industrial/commercial user, samples collected by the city will be split with the industrial/commercial user for verification of analytical results. However, determination of the character, strength, or quantity of the waste as made by the director or his authorized representatives, shall be conclusive as a basis for computation of charges or for actions by the city.

(c) Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt shall govern.

(d) Record keeping. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

(10) Notification of discharge of hazardous material. (a) Subsection 18-605(1)(e) prohibits the discharge of hazardous material. Any user who may accidentally discharge hazardous material shall immediately notify the director, the EPA regional waste management division director, and the state division of solid waste management.

(b) The use of any new hazardous materials or hazardous waste in a user's facility must be immediately reported to the director, the EPA regional waste management division director, and the state division of solid waste management.

(c) In the case of any notification made under this section, the user shall certify that it has a program in place to prevent the discharge of a toxic or hazardous material. (as added by Ord. #08-139-0, Oct. 2008)

18-612. Authority for inspection. (1) Right of entry. The director and his duly authorized representatives shall be permitted to enter upon the property of the user for the purpose of inspection, observation, flow measurement, sampling, and testing of industrial/commercial waste and other pollutants in accordance with this ordinance.

(2) Ready access. Users or occupants of premises where wastewater is generated or discharged shall allow the city or its representative(s) immediate access to all points on their premises where waste is generated or discharged into a public sewer for the purposes of inspection, sampling, records examination, or in the performance of any of their duties.

(3) Monitoring access. The city, the 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 flow metering operations.

(4) Security arrangements. Where a user has security measures in force that would require proper identification and clearance before entry onto the user's premises, the user shall make necessary arrangements with the user's security guards so that upon presentation of suitable identification, personnel from the city, the approval authority, and EPA will be permitted to enter without delay for the purposes of performing their specific responsibilities. (as added by Ord. #08-139-0, Oct. 2008)

18-613. Confidential information. (1) Information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the director that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

(2) When requested by the person furnishing a report, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) permit; provided, however, that such portions of a report shall be available for the 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.

(3) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request. (as added by Ord. #08-139-0, Oct. 2008)

18-614. Protection of equipment. No person shall maliciously, willfully, or negligently break, damage, destroy, deface, tamper with, or remove any equipment or materials that are a part of the city's wastewater system or that are used by the city for the purposes of making waste examinations and waste flow measurements or monitoring. Only persons authorized by the director will be allowed to uncover, adjust, maintain, and remove such equipment and materials. (as added by Ord. #08-139-0, Oct. 2008)

18-615. Enforcement. (1) Enforcement action. Any user who violates any provision of this ordinance, a condition of a permit or applicable state of federal laws or regulations may be subject to enforcement action by the city as follows:

(a) Notice of violation. Whenever the director determines that a user has violated or is violating this ordinance, a permit, or any prohibition, limitation, or requirement contained in this ordinance, or any other pretreatment requirement, the director may serve upon the user a written notice of violation that shall be addressed to the authorized representative of the user and shall set forth the date and the nature of the violation. Within thirty (30) days of the date of the notice of violation, the user shall submit a written account of the reason for the violation and a plan for the satisfactory correction thereof to the director, and shall schedule a meeting with the director or his designee. Submission of the plan does not relieve the user from liability for any violations occurring either before or after receipt of the notice of violation.

(b) Consent agreements. The director is authorized to enter into consent agreements or other similar documents establishing agreements with users not in compliance. Such agreements or documents will include specific actions to be taken by a user to correct noncompliance within a specific time period and may be titled "consent order" or "consent agreement." Similar documents shall have the same force and effect as consent orders and administrative orders issued pursuant to § 18-615(1)(c) of this ordinance.

(c) Administrative order. If the director finds that a user has violated or continues to violate this ordinance, a permit, or other applicable state or federal law or regulation, the director may issue an administrative order to cease and desist all such violations and direct the user to do any or all of the following:

(i) Immediately comply with all pretreatment requirements;

(ii) Comply with all pretreatment requirements in accordance with a time schedule set forth in the administrative order;

(iii) Take appropriate action to prevent a continuing or threatened violation; and/or

(iv) Disconnect the user's connection to the wastewater system unless the user's discharge can be adequately treated to bring it into compliance.

(d) Emergency suspension. (i) The director may revoke a user's permit or right to discharge to the wastewater system if, in the discretion of the director, such a revocation or suspension is necessary in order to stop an actual or threatened discharge that presents or may present an imminent or substantial endangerment to the public health, welfare, or to the environment, or that interferes or may interfere with the operation of the water treatment plant, or that causes or may cause the wastewater treatment plant to violate any condition of its NPDES permit.

(ii) A notice of suspension shall be sent to an authorized representative of the user by certified and regular mail or may be hand delivered to the user's facility. A user so notified shall immediately stop or eliminate the discharge. Within fifteen (15) days of the notice of suspension or revocation, a hearing will be held to determine whether the suspension may be lifted or the permit terminated.

(e) Termination of permits. Any of the following may subject a user to having its permit terminated:

(i) Failure to accurately monitor and report the wastewater constituents and characteristics of the discharge;

(ii) Failure to report significant changes in operations or wastewater constituents;

(iii) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(iv) Violation of conditions of the permit. Users whose permits are subject to revocation under this section may be notified of the proposed termination and may be offered an opportunity to show cause why the proposed action should not be taken.

(2) Civil penalties. (a) any user who is in violation of any provision of this ordinance, a consent agreement, administrative order, a rule, regulation, law, or permit condition may be fined up to fifty dollars ($50.00) per day per violation.

(b) Each day the violation continues may be considered a separate violation.

(c) In determining the amount of a civil penalty, the director may consider the following:

(i) The degree and extent of the harm done to the natural resources of the state, to the public health, or to public or private property as a result of the violation;

(ii) The duration and gravity of the violation;

(iii) The effect on ground or surface water quality, or on air quality;

(iv) The cost of repairing the damage to the wastewater system, to property, and to the natural resources of the state;

(v) The amount of money saved, if any, by noncompliance, including the cost of continuing to discharge in noncompliance instead of stopping operations;

(vi) Whether the violation was committed negligently, grossly negligently, recklessly negligently, willfully, or intentionally.

(vii) The prior record of a user in complying or failing to comply with the conditions of its permit, this ordinance, or other environmental laws and regulations, in effect in the city, other parts of Tennessee, or other states in the United States;

(viii) The cost to the wastewater treatment plant, including attorney's fees, sampling costs, cost of additional laboratory analysis, and the cost of engineering and consulting fees necessary, in the discretion of the city, to determine the nature and extent of damage, prevent further damage, and repair any damage.

(d) Notice of civil penalty. An assessment of civil penalty ("the civil penalty assessment") shall be made by written notice from the director to the authorized representative of the user. The notice shall be sent by certified and regular mail to the address of the user's facility.

(3) Other remedies. The director may use other available remedies to attempt to bring users into compliance including, but not limited to:

(a) Criminal violations. Upon recommendation of the board of mayor and aldermen, the director may request that the city attorney for the appropriate judicial district prosecute users not in compliance with the provisions of applicable Tennessee General Statutes, or that the United States Attorney prosecute users not in compliance with the Clean Water Act and regulations promulgated hereunder.

(b) Injunctive relief. Whenever a user is in violation of the provisions of this ordinance, a permit issued hereunder or any provision thereof, or applicable law or regulation, the director may file a lawsuit in the superior court of the appropriate county for the issuance of a restraining order, or preliminary or permanent injunction restraining the activity by the user in violation of the permit or ordinance.

(c) Water supply severance. Whenever a user is in violation of the provisions of this ordinance, a permit issued hereunder, or provision thereof or applicable law or regulation, the director may request that the public water supplier or other entity providing water to the user, sever the user's water supply and reconnect the water supply only after satisfactory compliance with the user's permit or the provisions of this ordinance.

(4) Remedies nonexclusive. The remedies provided for in this ordinance are not exclusive. The director may take any, all, or any combination of these actions against a user not in compliance. The director is specifically empowered to take more than one (1) enforcement action against any noncompliant user.

(5) Affirmative defenses to discharge violations. (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with this ordinance, a permit to discharge industrial/commercial waste, or any other pretreatment standard, if the requirements set forth below are met.

(b) A user wishing to establish the affirmative defense of upset, as defined in § 18-601(67), shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause of the upset;

(ii) The facility was, at the time, being operated in a prudent and workmanlike manner and in compliance with applicable operating and maintenance procedures;

(iii) The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset:

(A) A description of the discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) The steps being taken and planned to reduce, eliminate, and prevent recurrence of the noncompliant discharge.

(c) In any enforcement proceeding, the user seeking to establish the affirmative defense of an upset shall have the burden of proving an upset by the greater weight of the evidence.

(d) Users will have an opportunity for an adjudicatory hearing in accordance with § 18-615(3) of this ordinance on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) Whenever there is a loss of power to a facility, the user shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of power at a facility until power is restored to the facility or an alternative method of treatment is provided.

(f) Bypass, as defined in § 18-601(1)(h), is prohibited, and the director may take an enforcement action against the user for bypass, unless:

(i) Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, cessation of operations at the facility, or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance); and

(iii) The user submitted notice of the bypass to the director.

(g) In an enforcement proceeding, the user seeking to establish the defense of bypass will have the burden of proof.

(6) Annual publication of significant noncompliance. At least annually, the director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial/commercial users that were found to be in significant noncompliance with applicable pretreatment standards and requirements, during the previous twelve (12) months. (as added by Ord. #08-139-0, Oct. 2008)

18-616. Extension of sewer service. Extensions or modifications of the wastewater system shall be accomplished in accordance with the sewer service extension policy of the city, as may be amended from time to time. (as added by Ord. #08-139-0, Oct. 2008)

18-617. Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance. (as added by Ord. #08-139-0, Oct. 2008)

18-618. Conflict. (1) Conflict with other ordinances and regulations. All other ordinances and regulations and parts of other ordinances and regulations inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict. This ordinance shall not affect any litigation or other proceedings pending at the time of its adoption.

(2) Conflict with federal, state, or local law. Nothing in this ordinance is intended to affect any requirements, including standards or prohibitions established by federal, state, or local law, so long as federal, state, or local requirements are not less stringent that the requirements set forth in this ordinance. (as added by Ord. #08-139-0, Oct. 2008)

18-619. Amendments. The city reserves the right to amend the ordinance. (as added by Ord. #08-139-0, Oct. 2008)

18-620. Requirements for oil/grit separators. (1) Gravity-type separators for the removal of oil, grit, sand, glass, entrails or other such materials likely to create or contribute to a blockage of the wastewater collection system or otherwise interfere with the operation of the wastewater system are required at commercial establishments that discharge such materials. These oil/grit separators shall be of a type approved by the wastewater director and shall be located as to be readily and easily accessible for cleaning and inspection. The separators will be a minimum of one thousand (1,000) gallons in volume. All oil/grit separators shall conform to the requirements of this section and the oil/grit separator detail drawings and specifications at the end of this section. Maintenance of oil/grit separators shall be in accordance with the twenty-five percent (25%) rule and will comply with the same record keeping requirements as grease interceptors.

Also, two (2) detail drawings entitled "Oil/Grit Separator Detail (Non-Traffic Rated)" and oil/grit.

Separator detail (traffic-rated) are included at the end of section 5.08. These drawings are available in the recorder's office.

(2) New fees for operation of fats, oils, and grease program.

(a) Grease trap/interceptor and oil/grit separator annual permit fee: One hundred dollars ($100.00);

(b) Grease trap/interceptor and oil/grit separator re-inspection fee: sixty dollars ($60.00). The calculation of these rates is based on estimated expenses involved in performing inspections, reinspections and completion of all data collection and reporting requirements. Calculation is attached to this ordinance. Said rates shall be added to the existing rate schedule for wastewater services and amended as necessary.

(c) All annual permit fees will be due and payable to the City of Madisonville on January 10 of each calendar year, and will be billed by the City of Madisonville to each individual permit holder and/or each individual or entity required to possess such permit. The annual permit fee to be so assessed is one hundred dollars ($100.00) per year effective as of the date of passage of the ordinance amending this section and the cost for said annual permit fee may change from time to time as deemed necessary and proper by the City of Madisonville. The amount of the permit fee to be paid by each individual permit holder and/or each

individual or entity required to possess such permit shall be prorated in the event that such individual permit holder and/or individual or entity is not engaged in business or activity subject to this ordinance for an entire calendar year. (as added by Ord. #11-174-0, March 2011, as amended by Ord. #14-224-O, Jan. 2015)

TITLE 19

ELECTRICITY AND GAS

CHAPTER
1. GAS SERVICE.

CHAPTER 1

GAS SERVICE

SECTION
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19-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving gas service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1988 Code, § 13-201)

19-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives gas service from the city under either an express or implied contract.

(2) "Service line" shall consist of the pipe line extending from any gas main of the city to private property.

Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's gas main to and including the meter and meter box.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(4) "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. (1988 Code, § 13-202)

19-103. Application and contract for service. Each prospective customer desiring gas service will be required to sign a standard form contract and pay a service deposit of $25.00 before service is supplied. The service deposit shall be refundable if and only if the city cannot supply service in accordance with the terms of this chapter. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish the service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the city to the applicant shall be limited to the return of any deposit it made by such applicant. (1988 Code, § 13-203)

19-104. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supply and removing of service in addition to the regular charge for gas service. (1988 Code, § 13-204)

19-105. Connection charges. Service lines will be laid by the city from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the city.

Before a new gas service line will be laid by the city, the applicant shall make a nonrefundable connection charge of $300.00 plus $1.00 per foot over 100 feet.

When a service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer. (1988 Code, § 13-205, modified)

19-106. Gas main extensions. Persons desiring gas main extensions must pay all of the cost of making such extensions. All such extensions shall be installed either by municipal forces or by other forces working directly under the supervision of the city in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the city, such gas mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate the mains as an integral part of the municipal gas system and shall furnish gas service therefrom in accordance with these rules and regulations. (1988 Code, § 13-206)

19-107. Gas main extension variances. Whenever the city council is of the opinion that it is to the best interest of the city and its inhabitants to construct a gas main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the city council.

The authority to make gas main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. (1988 Code, § 13-207)

19-108. Meters. All meters shall be installed, tested, repaired, and removed only the city.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a gas meter without the written permission of the city. No one shall install any pipe or other device which will cause gas to pass through or around a meter without the passage of such gas being registered fully by the meter. (1988 Code, § 13-208)

19-109. Multiple services through a single meter. No customer shall supply gas service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one dwelling or premise to be served through a single service line and meter, the amount of gas 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 gas and charges 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 gas so allocated to it, such computation to be made at the city's applicable gas 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. (1988 Code, § 13-209)

19-110. Customer billing and payment policy. Gas bills shall be rendered monthly and shall designate a standard net payment period for all members of not less than 10 days after the date of the bill. Failure to receive a bill will not release a customer from payment obligation. There is established for all members a late payment charge not to exceed 10% for any portion of the bill paid after the net payment period.

Payment must be received in the gas department no later than 4:30 P.M. on the due date. If the due date falls on Saturday, Sunday, or a holiday net payment will be accepted if paid on the next business day no later than 4:30 P.M.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if gas is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. (1988 Code, § 13-210)

19-111. Termination or refusal of service. (1) Basis of termination or refusal. The city shall have the right to discontinue gas service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

(a) These rules and regulations, including the nonpayment of bills.

(b) The customer's application for service.

(c) The customer's contract for service.

Such right to discontinue service shall apply to all gas services received through collective single connections or services, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

(2) Termination of service. Reasonable written notice shall be given to the customer before termination of gas service according to the following terms and conditions:

(a) Written notice of termination (cut-off) shall be given to the customer at least five (5) days prior to the scheduled date of termination. The cut-off notice shall specify the reason for the cut-off and

(i) The amount due, including other charges.

(ii) The last date to avoid service termination.

(iii) Notification of the customer's right to a hearing prior to service termination, and, in the case of nonpayment of bills, of the availability of special counseling for emergency and hardship cases.

(b) In the case of termination for nonpayment of bill, the employee carrying out the termination procedure will attempt before

disconnecting service to contact the customer at the premises in a final effort to collect payment and avoid termination. If a customer is not at home, service may be left connected for one (1) additional day and a further notice left at a location conspicuous to the customer.

(c) Hearings for service termination, including for nonpayment of bills, will be held by appointment at the company office between the hours of 8:00 A.M. and 4:30 P.M. on any business day, or by special request and appointment a hearing may be scheduled outside those hours.

(d) Termination will not be made on any preceding day when the gas department is scheduled to be closed.

(e) If a customer does not request a hearing, or, in the case of nonpayment of a bill, does not make payment of the bill, or does not otherwise correct the problem that resulted in the notice of termination in a manner satisfactory to the gas department, the same shall proceed on schedule with service termination.

(f) Service termination for any reason shall be reconnected only after the payment of all charges due or satisfactory arrangements for payment have been made or the correction of the problem that resulted in the termination of service in a manner satisfactory to the gas department, plus the payment of a reconnection charge of $25.00 for the first occurrence, $50.00 for the second occurrence, and $100.00 for the third and subsequent occurrences. (1988 Code, § 13-211, modified)

19-112. 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 city 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 city 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 city 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 city 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.

(3) Suspension of gas service. The gas customer must submit a request to city hall to have gas service suspended for the summer season. At that time, the call will be recorded on the gas service suspension/reconnect form. The customer will not be charged the monthly customer service charge of $3.50 for residential service ir $40.20 for commercial service, whereas the current monthly customer service charges for gas service are $3.50 for residential services and $40.20 for commercial service, plus the gas used.

When gas service is re-activated (turned on), the customer must provide a request to city hall to turn the gas service on. At that time, there will be a $25.00 charge for reconnecting the gas service for commercial customers. The reconnecting charge will be added to the current monthly utility bill. (1988 Code, § 13-212, as amended by Ord. #05-79-0, May 2005)

19-113. Access to customers' premises. The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' gas plumbing and premises generally in order to secure compliance with these rules and regulations. (1988 Code, § 13-213)

19-114. Inspections. The city shall have the right, but shall not be obligated, to inspect any installation or gas plumbing system before gas service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not in compliance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or gas plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1988 Code, § 13-214

19-115. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer. (1988 Code, § 13-215)

19-116. Customer's responsibility for violations. Where the city furnishes gas 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. (1988 Code, § 13-216)

19-117. Supply and resale of gas. All gas shall be supplied within the city exclusively by the city, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the gas or any part thereof except with written permission from the city. (1988 Code, § 13-217)

19-118. Unauthorized use of or interference with gas supply. No person shall turn on or turn off any of the city's gas, valves, or controls without permission or authority from the city. (1988 Code, § 13-2118)

19-119. Damages to property due to gas pressure. The city shall not be liable to any customer for damages caused to his gas plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's gas mains. (1988 Code, § 13-2119)

19-120. Liability for cutoff failures. The city's liability shall be limited to the forfeiture of the right to charge a customer for gas 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 gas service, the city has failed to cut off such service.

(2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that gas enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. (1988 Code, § 13-220)

19-121. Restricted use of gas. In times of emergencies or in times of gas shortage, the city reserves the right to restrict the purposes for which gas may be used by a customer and the amount of gas which a customer may use. (1988 Code, § 13-221)

19-122. Interruption of service. The city will endeavor to furnish continuous gas service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal gas system, the gas supply may be shut off without notice when

necessary or desirable, and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1988 Code, § 13-222)

19-123. Schedule of rates. All gas service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance or resolution.[1] (1988 Code, § 13-223)

[1]Administrative ordinances and regulations are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER
1. CONTRACTOR'S INSURANCE.
2. USE OF MUNICIPAL PUBLIC FACILITIES.
3. PUBLIC RECORDS PROCEDURES.

CHAPTER 1

CONTRACTOR'S INSURANCE

SECTION
20-101. Contractor's insurance required.

20-101. Contractor's insurance required. All contractors doing business with the City of Madisonville shall be required to carry liability insurance for their business and where applicable, are required to carry workers compensation insurance pursuant to Tennessee statute, and must provide the city recorder with a certificate of insurance as evidence thereof, prior to commencing work for or on behalf of the city. Limits of liability required are to be set pursuant to board administrative policy.

CHAPTER 2

USE OF MUNICIPAL PUBLIC FACILITIES

SECTION

20-201. Regulations for use.
20-202. Use of municipal public facilities.
20-203. Applications.
20-204. Limits on uses of facilities.
20-205. Fees.
20-206. Hours of operation.
20-207. Enforcement.

20-201. Regulations for use. The following rules and regulations are established for all municipal public facilities. It shall be unlawful for anyone to violate said rules and regulations.

(1) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or public facility for any purpose, or sponsoring or promoting any activities therein agrees to abide by all laws, rules and regulations pertaining to use of the public facility.

(2) No unauthorized person shall injure or damage the grounds or any structure, rock, tree, shrub, flower, waterway, trail, bird, or animal within any park nor shall any person gather limbs, brush, or trees therein for firewood.

(3) Firearms and fireworks shall be prohibited at all times except by authorized personnel.

(4) Bows, slingshots, and other missile or projectile throwing devices are prohibited.

(5) Skateboards, rollerblades, scooters, bicycles or remote control vehicles shall not be allowed in any park or recreational area and buildings.

Service animals shall be allowed in all parks as long as said service animal is assisting the disabled.

Dogs that are pets shall be allowed in any designated nature trail or specially designated dog park unless the same is otherwise posted specifically prohibiting animals. Said dogs shall be on a leash which is no more than six feet (6') in length, crated, caged, or otherwise under physical restrictive control at all times, except for dogs within the confines of designated dog parks. The owner or custodian of any dog shall be responsible for the removal of solid waste deposited by said dog within the designated nature trail or designated dog park. Enforcement of this provision shall be by enforcement action taken by city police officers, or animal control officers. Dogs shall wear vaccination tags and shall not be allowed to disturb the peace and quiet of patrons of the designated nature trail and/or designated dog park.

(6) No vending or advertising of merchandise shall be permitted without permission of the board of mayor and aldermen.

(7) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or public facility for any purpose, or sponsoring or promoting any activities therein understands and agrees that it is not permissible to bring, distribute, sell, or otherwise disseminate any materials/items which are illegal or deemed to be inappropriate, and doing so will be grounds for immediate termination of the grant to use such municipal public facilities.

(8) Motorists shall observe speed limits and other traffic regulations as posted and park only in designated areas.

(9) All vehicles, including motorcycles and terrain vehicles must remain on paved or gravel roadway inside the parking area(s).

(10) No alcoholic beverages of any kind or other illegal substances shall be permitted in any park area or recreational facility.

(11) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or municipal public facility for any purpose, or sponsoring or promoting any activities therein, must repair any damage done to fields, fences, light poles, structures, landscaping, or any facility by said organization, group, civic club, individual, firm, or corporation. Violation of this section shall result in forfeiture of the right to further use of the park and/or related municipal public facilities.

(12) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or municipal public facility for any purpose, or sponsoring or promoting any activities therein, shall clear the park of all rubbish, trash, or other debris immediately after said use. Violation of this section shall result in forfeiture of the right to further use of the park and/or municipal public facilities.

(13) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or municipal public facility for any purpose, shall agree to indemnify the city for any loss, costs of clean-up, or other costs associated with their/its use, which may accrue to the city.

(14) Overnight camping is prohibited in city parks.

(15) Fires are prohibited in city parks except as specifically authorized.

(16) No organization, group, civic club, individual, firm or corporation shall use any municipal public facility within the city except for recreational purposes or use to which such property is customarily devoted.

(17) If applicable, the organization, group, civic club, individual, firm or corporation using a municipal public facility shall be responsible for obtaining authorization for performances of copyrighted musical works and other material and that they/it will be responsible for ensuring that all entertainers have obtained the proper and necessary authorization to perform any licensed material. It is understood and agreed that the city is not responsible for any unauthorized performance of copyrighted material and will hold the city harmless and will indemnify the city from and against any and all claims,

lawsuits, and demands in connection with the performance of copyrighted material.

(18) No unauthorized vehicle shall be parked at a city park outside of the authorized hours of operations. Any unauthorized vehicles which are found on park property after operational hours shall be towed away at owner's expense.

(19) Fishing shall be permitted on the lake at Kefauver Park, but swimming, boating and the related activities are prohibited.

(20) The emission of excessive noise from mechanical or electrical devices without express advance written permission from the city is prohibited.

(21) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or municipal public facility for any purpose shall be responsible for any liability incurred due to the use of the municipal public facility and further understands it is their/its responsibility to obtain general liability insurance with minimum limits of one million dollars ($1,000,000.00) per occurrence, for their/its own protection, and that the city will be named as an additional insured on that insurance coverage. It is further understood that the failure to provide insurance will not relieve them/it from personal liability and that the city does not provide any insurance protection for their/its benefit.

(22) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or municipal public facility for any purpose, shall not hold the city, its volunteers, officers, agents or employees liable for any loss, injury, bodily injury, property damage or theft that they/it, or any of their/its invitees, employees, agents, or persons working with them/it, sustain or suffer while attending the event being held/sponsored by them/it.

(23) Any organization, group, civic club, individual, firm, or corporation using a park, recreational or municipal public facility for any purpose, agrees to be legally bound for themselves/itself, heirs, executors, administrators and assigns, to hold the city harmless and to waive and release any and all rights and claims for loss against the city, its volunteers, officers, agents or employees.

(24) The board of mayor and aldermen may from time to time establish other regulations or restrictions as policy to govern use of city parks, recreational, or any other municipal public facilities. Such policies shall be established by resolution. (as added by Ord. #13-208-0, Dec. 2013, and amended by Ord. #13-208-O-A, Dec. 2018)

20-202. <u>Use of municipal public facilities</u>. The city parks and recreation director may permit the use of municipal public facilities on a priority basis by civic, educational, or community service groups, provided that such activities will not interfere with the utilization of such facilities by the city for its own programs. The priority for such uses shall be set forth in this section. In the event of a conflict between priorities, the final determination shall be made by board of mayor and aldermen.

First priority shall be given, on a space-available basis, to the activities of resident(s) and resident civic, educational, or community service groups providing recreation activities that complement the recreation program of the city as determined or permitted by the city parks and recreation director.

Second priority will be given, on a space-available basis, to the activities of nonresident(s) and nonresident civic, educational, or community service groups, providing recreational activities that complement the recreation program of the city as determined or permitted by the city parks and recreation director. (as added by Ord. #13-208-0, Dec. 2013)

20-203. Applications. Facilities may be reserved and used upon an application for use on a specific date. Such application shall be filed with the city parks and recreation director and signed by the president or chairperson of the organization. The application shall state the purpose for which use of the park facility is requested, whether admission fees and charges shall be made, and state the name of the organization's current president, which shall show on its face the number of members who reside within the city and the number of members who do not reside within the city. (as added by Ord. #13-208-0, Dec. 2013)

20-204. Limits on use of facilities. Any organization, group, civic club, individual, firm, or corporation shall be limited to using the park facilities to a maximum of four (4) times per calendar year. (as added by Ord. #13-208-0, Dec. 2013)

20-205. Fees. The board of mayor and aldermen may from time to time establish, at their discretion, a fee schedule for use of certain parks and specific municipal public facilities. Said fees shall be established by resolution. (as added by Ord. #13-208-0, Dec. 2013)

20-206. Hours of operation. To protect the residential areas of the city from undue disturbance and to also preserve the safety of users of city parks and recreational facilities, the city parks and recreation director may establish hours of operation of city parks. Due to differing locations and types of use, hours of operation may vary from park to park. Certain facilities within the parks may be designated for different hours of operation than the park as a whole. No person or group shall use any park or its facilities outside hours established for their use. Any person or group found in violation of the established hours shall be instructed to leave. If a person or group fails to follow the established hours, it shall be considered trespassing and authorized personnel may have violators legally removed. (as added by Ord. #13-208-0, Dec. 2013)

20-207. Enforcement. If any individual or group of individuals fails to follow any municipal public facility rules and/or policy or any city policy related

to use of such municipal public facility, said individual or group may be requested to cease use and to leave municipal public facility. When such violations are discovered, the parks and recreation department, through its director or designee, including but not limited to, a member of the city police department are authorized to instruct said individual or group to cease any violation and to vacate the property when deemed necessary. If an individual or group fails to respond to said instructions, then authorized officers may be called upon to remove said individual or group. It is further understood and agreed that any individual or group shall comply with and follow any directions and/or orders made by city personnel, law enforcement agencies, and/or fire and safety personnel which may be made for the protection and safety of their/its invitees, employees, agents, or persons working for them/it. Failure to abide by laws, rules and regulations or to heed directions and/or orders will be considered prima facie evidence of the assumption of liability for any resulting injury or damage. (as added by Ord. #13-208-0, Dec. 2013)

CHAPTER 3

PUBLIC RECORDS PROCEDURES

SECTION

20-301. Procedures regarding access to and inspection of public records.

20-301. Procedures regarding access to and inspection of public records. (1) Consistent with the Public Records Act of the State of Tennessee, personnel of the City of Madisonville shall provide full access and assistance in a timely and efficient manner to Tennessee residents who request access to public documents.

(2) Employees of the City of Madisonville shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of the records custodian or designee. All copying of public records must be performed by employees of the city, or, in the event that city personnel are unable to copy the records, by an entity or person designated by the records custodian.

(3) To prevent excessive disruptions of the work, essential functions, and duties of employees of the City of Madisonville, persons requesting inspection and/or copying of public records are requested to complete a records request form to be furnished by the city. If the requesting party refuses to complete a request form, a city employee shall complete the form with the information provided by the requesting party. Persons requesting access to open public records shall describe the records with specificity so that the records may be located and made available for public inspection or duplication, as provided in subsection (2) above. All requests for public records shall be directed to the records custodian.

(4) When records are requested for inspection or copying, the records custodian has up to seven (7) business days to determine whether the city can retrieve the records requested and whether the requested records contain any confidential information, and the estimated charge for copying based upon the number of copies and amount of time required. Within seven (7) business days of a request for records the records custodian shall:

(a) Produce the records requested;

(b) Deny the records in writing, giving explanation for denial; or,

(c) In the case of voluminous requests, provide, in writing, the requestor with an estimated time frame for production and an estimation of duplication costs.

(5) There is no charge assessed to a requester for inspecting a public record. Charges for physical copies of records, in accordance with the Office of Open Records Counsel (OORC) schedule of reasonable charges, are as follows:

(a) Standard 8 1/2 x 11 or a 8 1/2 x 14 black and white copy - fifteen cents ($.15) per page for each produced.

(b) Standard 8 1/2 x 11 or 8 1/2 x 14 color copy - fifteen cents ($.15) per page for each produced.

(c) Accident reports - fifteen cents ($.15) per page for each standard 8 1/2 x 11 or 8 1/2 x 14 black and white copy produced.

(d) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual costs to the city.

(6) Requests requiring less than one (1) hour of municipal employee labor for research, retrieval, redaction and duplication will not result in an assessment of labor charges to the requester. Employee labor in excess of one (1) hour may be charged to the requester, in addition to the cost per copy, as provided in subsection (5). The city may require payment in advance of producing any request. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour.

(a) For a request requiring more than one (1) employee to complete, labor charges will be assessed based on the following formula: In calculating the charge for labor, a department head shall determine the number of hours each employee spent producing a request. The department head shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The department head will then multiply total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the department head will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

(b) When the total number of requests made by a requester within a calendar month exceeds four (4), the requests will be aggregated, and the requester shall charge a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requester that the aggregation limit has been met. Request for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month, shall not be counted in the aggregated requests.

(7) If the city is assessed a charge to retrieve the requested records from archives or any other entity having possession of requested records, the records custodian may assess the requester the cost assessed to the city.

(8) Upon completion of a records request the requester may pick up the copies of records at the office of the records custodian. Alternatively, the requester may choose to have the copies of records delivered via United States Postal Service; provided that the requester pays all related expenses in advance.

(9) The police chief shall maintain in his office records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in the office of the records custodian. [This provision is for small police departments who do not have personnel trained in records management. Larger police departments should maintain personnel records in the department under the supervision of a trained records custodian]. Requests for personnel records, other than for undercover investigators, shall be made to the records custodian, who shall promptly notify the police chief of such request. The police chief shall make the final determination as to the release of the information requested. In the event that the police chief refuses to release the information, he shall provide a written explanation of his reasons for not releasing the information.

(10) If the public records requested are frail due to age or other conditions, and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection. (as added by Ord. #13-211-0, Feb. 2014)

Change 3, February 3, 2014

APPENDIX

A. PARALLEL REFERENCE TABLE APP-1
B. MADISONVILLE WATER SYSTEM CROSS-CONNECTION CONTROL PLAN APP-B-1

APPENDIX B

MADISONVILLE WATER SYSTEM

CROSS-CONNECTION CONTROL PLAN[1]

PURPOSE.

This plan describes the Madisonville Water System program of action designed to inform the public of the danger of cross-connection, to identify possible cross-connections, to insure that cross-connection control devices are installed where needed, and to set forth a schedule of annually testing and or repair of the installed control devices.

INFORMING THE PUBLIC.

Few members of the general public are aware of the potential public health danger from cross-connections. By informing the public of the potential health hazards from cross-connections a greater degree of cooperation for this program should be gained. The following measures will be used to inform our customers about the need for cross-connection control:

l. Reminders with water bills at least once each year.
2. Reminders attached to CCR reports yearly.
3. Posters at the water system office displayed one (1) month out of each quarter.
4. Furnish the local newspaper an example of a cross-connection contamination or pollution incider once each year.
5. Personal visits to commercial, industrial, and agricultural customer to explain the need for cross-connection control.
6. Contact made with developers to explain cross-connection control requirements as early as possible in the planning or construction stages.

The goal of all these measures will be that it is the customer's responsibility to eliminate or control cross-connections. Failure to do so (may or will), result in the termination of water services.

[1]This plan was added to § 18-302 by Ord. #12-191-0, June 2012.

IDENTIFYING CROSS-CONNECTIONS.

The customer list will be reviewed again in an effort to identify those customers who are likely to have cross-connections, as far as practical. Such customers will be grouped into two (2) risk categories (e.g., very high and high) according to the degree of probable risk. In general those customers considered likely of being of the greatest potential threat to the water system will be visited first. Examples of very high risk customers would be: sewage treatment plants, hospitals, mortuaries, laboratories, pest exterminators, agricultural suppliers of bulk fertilizers, pesticides, herbicides, etc., manufacturers, chemical processors, dry cleaners, air washers, etc. Examples of some establishments that may be of somewhat lower risk would include such premises as: laundry mats, school, water treatment plants, restaurants and other food establishments, dairies, etc.

SCHEDULING VISITS TO VERY HIGH RISK CUSTOMERS.

When the reviewed list of customers with a very high degree of cross-connection risk has been put together, a schedule of on-site visits will be made. It is the goal of the City of Madisonville to complete visits to all customers identified in a timely manner. Our goal is to complete as soon as possible.

VISITS TO HIGH RISK CUSTOMERS.

When the very high risk customers have been visited, a schedule of visits to other high risk customers will be prepared as soon as possible. Other locations will likely be identified that will be added to the list of customers to receive either first or second priority.

VISITS TO NEW COMMERCIAL, INDUSTRIAL AND BUSINESS CUSTOMERS.

The City of Madisonville will continue to identify any new establishments while in the planning or early construction stages. The planned users of water will still be investigated. Cross-connection devices will be specified at needed locations. It is the City of Madisonville objective to have any needed backflow prevention devices installed during construction before water service is provided for new customers.

A CONTINUING PROGRAM OF SEARCH FOR CROSS-CONNECTIONS.

Visits will continue to be made to any remaining commercial, industrial, or institutional customers as well as agricultural customers where water is used directly in production or maintenance operations. In addition residential customers who may create cross-connection hazards will be identified and

visited. It is the goal of the City of Madisonville to revisit all premises where cross-connections have been corrected or where cross-connections are considered likely to be created at least annually following the initial visit.

FIELD VISITS PROCEDURES.

During cross-connection visits, a field sheet will be completed showing details of significant findings. Information to be recorded on the field sheet will include date of visit, customers name, mailing address, telephone number, person(s) contacted, description and locations of cross-connection problems, corrected action needed, etc.

Any cross-connection hazards found will be explained to the persons assisting in making the surveys. If there is any (1) uncertainty of the part of the individual making the survey as to what protective action should be taken or (2) the customer disagrees strongly as to the need for correction, the customer will be informed that the information obtained during the survey will be reviewed with the management of the water system and, with the systems consulting engineer or technical advisor. A written report containing any recommendations will be mailed to the customer as soon as possible.

ACTION TAKEN WHEN A CROSS-CONNECTION IS IDENTIFIED.

When a cross-connection is found, the following action will be taken:

1. Whenever possible, take immediate action to eliminate or reduce the cross-connection hazard.

2. Inform the customer by letter within ten (10) working days of finds and of required backflow control measures and a time limit for completing the corrective action.

A. Time limit may vary depending on difficulty of making correction up to a maximum of (ninety (90) days for high risk and fourteen (14) days for very high risk).
B. Customer will be asked to discuss with a representative of the water system any problems that may arise in meeting this time limit.
C. The customer will be supplied a list of acceptable backflow prevention devices and criteria to be followed in its installation and urged to ask for the water systems representative to visit the site to review details of the proposed installation immediately before starting the work.

D. The customer will also be informed in writing of the water systems willingness to assist in identifying and correcting any remaining internal cross-connection problems for the protection of the occupants of the premises, insuring cross-connection control devices are installed and maintained.

INSPECTION OF INSTALLED- BACKFLOW PREVENTION DEVICES.

As soon as possible after the customer has installed a backflow prevention device(s), but no later than thirty (30) days for high hazard sites, fourteen (14) for very high hazard sites after the scheduled date for completion, the corrective measures will be inspected by a water system employee. The inspection will determine if the corrective measures have been installed correctly and any reduced pressure backflow prevention device, double check valve assembly, or pressure type vacuum breaker will be tested by a qualified individual using approved test equipment and test procedures.

ACTION TO BETAKEN AFTER INSPECTION.

If the control device is installed properly and it functions properly, the customer will be advised of having been approved by a city employee, and added to a master list of backflow devices. If the device is not installed or if it does not function properly, the customer will be given thirty (30) days for high hazard and fourteen (14) days for very high hazard sites to complete installation or make required changes in installation or repairs. After reinspection, failure to have a properly functioning cross-connection device installed will result in possible termination of water services. In such an event services will only be started again by having a functioning control device installed and by paying a meter installation fee.

ANNUALLY TESTING OF CROSS-CONNECTION CONTROL DEVICES.

Each installed cross-connection control device will be inspected. All reduced pressure backflow prevention devices, double check valve assemblies and (pressure type vacuum breakers, if found) will be tested:

l. Upon initial installation.
2. Whenever disassembled for cleaning and repairs.
3. Annually as follows:
   a. Reduced pressure backflow preventer - at least once every twelve (12) months, or more frequently for high risk situations.
   b. Double check valve assemblies - at least once every twelve (12) months.

c. Pressure type vacuum breaker - at least once every twelve (12) months.

4. When protective device is suspected of malfunctioning or in need of repairs.
5. When a protective device is found to be defective, a time frame will be given to the customer for proper repair(s). The customer will have ninety (90) days for high hazard and fourteen (14) days for very high hazard locations.

Test will be performed by a qualified water system or by another qualified individual holding a valid certificate, whose services will be secured by the water system as needed. Test procedures and equipment will conform to the latest, Edition of the Manual of Cross-Connection Control, Test reports of backflow prevention devices will be maintained as a part of the water systems permanent records, as well as being added to a master list of devices.

Where an air-gap separation, atmospheric vacuum breaker, dual check valve with atmospheric vent, etc., is being relied upon for protection from backflow, these devices will be inspected at least annually to determine that they have not been removed or altered as to be ineffective, and that the device is in good state of repair and is functioning properly. Attention will be given to any changes in water use patterns that may require a more positive protection plan.

PERSONNEL TO CARRY OUT PLAN.

This plan will be carried out by the City of Madisonville distribution department. Our goal will be to check at least one hundred (100) new customers, on a yearly time schedule. Also, we intend to devote two (2) to four (4) employee days of effort to carrying out the cross-connection control program each month of the year.

RECORDS.

Records will be maintained to document the Madisonville Water Systems efforts to protect against backflow. A file will permit ready review of findings of on-site visits, corrections required, correspondence, test records, etc., of the various premises visited. Data to be recorded for various on-site surveys will include such information as name and/or address of premises, owner's name and address, date of visit, person(s) contacted, cross-connection found, corrections needed, and date by which corrective measures need to be taken. In addition a file(s) will be utilized in scheduling routine revisits to inspect and test pressure type bockflow devices and inspect air-gap separations, atmospheric vacuum breakers, etc. The file(s) will contain essential information on the type of protection, date installed, manufacturer, model, size, and serial number, where

applicable, a brief history of previous inspections and/or test, date of test results, also the name of the inspector/tester, etc.

ORDINANCE NO. 01-22-0

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF MADISONVILLE TENNESSEE.

WHEREAS some of the ordinances of the City of Madisonville are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the City Council of the City of Madisonville, 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 "Madisonville Municipal Code," now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MADISONVILLE, 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 "Madisonville 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]

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is

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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

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 city council, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the 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, May 6, 2002.

Wayne Atkins
Mayor

Recorder