

CHARTER FOR THE TOWN OF NEWBERN, TENNESSEE¹

CHAPTER 450

Senate Bill No. 480

A BILL to incorporate the town of Newbern, in Dyer County, and to define its powers and provide for the election of officers.

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¹Acts 1901, ch. 450, is the present basic charter act of the Town of Newbern, Tennessee. As set out in this unofficial compilation, all general and permanent amendments, except as noted below, have been incorporated. Acts which did not amend any particular section of the basic charter, but, in effect, supplemented it, have been placed after the charter as "Related Laws." The basic charter act and related laws should be considered together to determine what the current law is.

Bond authorization and validation acts, since of a temporary nature with no general or continuing application, have not been included in this compilation. All acts through the 2014 session of the General Assembly which relate to the city and which have been passed since the granting of the present basic charter act (including one, Acts 1899, ch. 153, which was passed before the granting of the basic charter act) have been enumerated for reference purposes at the end of this compilation of the charter and related laws.

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Incorporation, name, and corporate boundaries¹

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That the town of Newbern, in the County of Dyer, and the inhabitants thereof, within the boundaries hereinafter specified, be, and are hereby constituted a body politic and corporate, under and by the style and name of the "Mayor and Aldermen of Newbern." The boundaries of said town of Newbern shall be as follows: Beginning at a stake in the southeast corner of D. E. Newman's lot; thence west with his west line to and across Q. Shumate's field to and across the Illinois Central Railroad Company's tracks to a stake in the north line of said company's right of way; thence north sixty poles; thence west to a stake in the east side of the Newbern and Roelin Road, thence north to a stake in the south line of the old Dyersburg and Newbern Road, known as Haskins lane; thence east to the corporation line; thence north to a stake in line with a point two poles north of J. G. Wynne's residence; thence east forty poles; thence north fifty poles to a stake northwest of L. M. Williams' residence; thence east to the northwest corner of G. W. Kirk's lot; thence north to a stake in Mrs. Cora Swindler's wood lot, fourteen poles north of the Lake road; thence east to a stake in line with a point two poles east of N. W. Nunn's residence; thence south to R. L. Towns' north line; thence east with his north line to his northeast corner; thence south to a stake in the south side of the Newbern and Yorkville road; thence east to a stake in line with the east line of Mrs. Mollie Weakley's home place; thence south to and with Mrs. Weakley's east line to her southeast corner; thence east to a stake in line with the west line of the J. N. Wyatt's home place; thence south to and with the west line of J. N. Wyatt's home place to a stake sixteen poles south of his northeast corner; thence west to D. W. Oliver's west line; thence south twelve poles to a stake in his west line; thence west to O. J. Radford's east line; thence south with his east line sixteen poles to a stake; thence west to a stake two poles east of Miss Eva Davis' east line; thence south to a stake in line with a point one pole south of the south line of the Fairview Cemetery lot; thence west to a stake in line with the west line of the J. S. McCorkle lot, now owned by Q. Shumate; thence north to and with said line to a stake in southeast corner of D. E. Newman's lot to the beginning.

¹The corporate boundaries as set out here have been further amended by annexation ordinances which are of record in the recorder's office.

The corporate limits of the Town of Newbern, in Dyer County, Tennessee, and the boundaries thereof be, and the same are, hereby extended so as to include the following territory, to-wit:

Beginning at a stake, it being in the east side of the Newbern and RoEllen Road and in the south line of the old Dyersburg and Newbern Road, formerly known as Haskins Lane and now known as the Lane's Ferry Road, and being in the West Boundary Line of the corporate limits of the Town of Newbern, runs thence south with the west boundary line of said corporate limits to a stake, it being in the south boundary line of U. S. Highway No. 51; runs thence west and southwesterly with the south boundary line of the right-of-way of U. S. Highway No. 51 to a stake, it being in the south boundary line of said right-of-way and being south of the southwest corner of THE WHEATLEY SUBDIVISION, as shown by plat thereof recorded in Large Plat Book 2 at page 3 in the Register's Office for Dyer County, Tennessee; runs thence north across said highway and continuing north with the west boundary line of said subdivision property as shown by said plat to a stake, it being in the south right-of-way line of said old Dyersburg and Newbern road, now known as the Lane's Ferry Road; runs thence east with the south boundary line of said right-of-way to the point of beginning.

There is hereby expressly excluded from the corporate limits of the Town of Newbern the property now owned and occupied by Joe L. Irby, being more particularly described to-wit:

North by Irby, South by Johnson, East by U. S. Highway No. 51 and West by Irby.

This property also being formerly known as the N. W. Nunn residence. [As amended by Acts 1905, ch. 62; Acts 1905, ch. 140; Acts 1905, ch. 357; Acts 1907, ch. 558, § 1; Priv. Acts 1923, ch. 142; Priv. Acts 1953, ch. 424; and Priv. Acts 1953, ch. 562]

Corporate succession, etc.

Sec. 2. Be it further enacted, That the corporation aforesaid shall have the perpetual succession by such name and style; shall sue and be sued, plead and be impleaded, in all courts of law and equity, and in all actions whatever; may purchase, receive, and hold personal and real property within the corporate limits, and may purchase, receive, and hold both real and personal property within or beyond said corporate limits, to be used for the burial of the dead¹; for the erection and keeping up hospital houses, quarantine houses or stations,

¹Priv. Acts 1965, ch. 54 authorizes a Special Cemetery Fund and is provided at the end of the charter.

work houses, houses of correction, and water works, and may sell or lease or dispose of all said property for the benefit of the corporation; but the sale of said property may be at its use value, which represents the value at which such property should be made available in order that it may be developed consistent with the sound needs of the municipality as a whole; and may do all other things touching said property as natural persons, and shall have and use a common seal, and which may be changed at the pleasure of the Board of Mayor and Aldermen; and said corporation shall have power to establish within or without the corporation limits, other houses or places for corporate purposes; and to make laws and regulations for the government, improvement, and keeping up of said places. [As amended by Priv. Acts 1965, ch. 54, § 1(1)]

Bonds heretofore issued; notes
for fire fighting equipment authorized

Sec. 3. Be it further enacted, That all bonds heretofore issued by the town of Newbern or the Mayor and Aldermen thereof, in pursuance of authority of General Assembly of the State, either under the Act of the General Assembly of Tennessee of 1897, Chapter 186, House Bill No. 549, entitled "An Act to authorize the Mayor and Aldermen of Newbern to issue bonds to pay for and extend the water, light, and power plant and school property of Newbern, and for the general improvement of the streets and sewerage of the town of Newbern," or under the Act of the General Assembly of 1891, the same being House Bill No. 108, entitled "An Act to authorize the Mayor and Aldermen of Newbern to issue bonds to improve and extend the water, light, and power plant of the town of Newbern, by amending the charter of the town of Newbern," and all the provisions of the said Acts of the Legislature with reference to the said issuance and the payment of the said bonds are, and shall be and remain valid obligations of the town of Newbern under this charter, and the said Board of Mayor and Aldermen are authorized and empowered to carry out and exercise, and do and perform all the acts and duties, powers and obligations, heretofore bestowed or imposed upon the said Board by the said Acts. The Mayor and Aldermen of Newbern shall have power and authority to, and it is hereby imposed upon them, to execute and perform all the provisions of the two said Acts of the Legislature just the same in all particulars as if the town of Newbern had not been re-incorporated, and those original Acts had remained in full force and effect. If any bonds have been issued under said Acts and not sold or authorized and not issued, they shall proceed to issue and sell the same.

The Board of Mayor and Aldermen are authorized to issue, by resolution, general obligation bonds of the town and bond anticipation notes to fund the purchase of fire fighting equipment for the fire department. Such bonds and notes shall be issued and sold under the procedures and subject to the applicable provisions of Chapter 16 of Title 6, Tennessee Code Annotated, being the "Municipal Recovery and Post War Aid Act of 1945," which is hereby adopted for

this purpose as if it were fully set out herein. [As amended by Priv. Acts 1977, ch. 119]

Corporation property¹

Sec. 4. Be it further enacted, That the title to all property heretofore belonging to the said town of Newbern and vested in the Mayor and Aldermen of Newbern shall be so vested under this charter, subject to the same burdens and encumbrances as heretofore, and with same rights and authorities in the said Mayor and Aldermen of Newbern.

Powers by ordinance

Sec. 5. Be it further enacted, That the Mayor and Aldermen of Newbern shall, within the limitations of this Act, have power by ordinance:

1. To levy and collect taxes for general corporation purposes and for sprinkling purposes² upon all property and polls taxable by the laws of the State, the rate of taxation to be such amount as the Mayor and Aldermen may provide for.

¹For further provisions relative to corporation property see § 14 in this charter.

²Priv. Acts 1919, ch. 650, § 1, added the phrase "and for sprinkling purposes" to this subsection. Sections 2, 3, and 4 of that act provided as follows:

Sec. 2. Be it further enacted, That the sprinkling tax shall be a separate tax so kept and paid out by the custodian of the city funds, and to be such rate as may be necessary to keep the business section and streets thoroughly sprinkled.

Sec. 3. Be it further enacted, That in the levying of the sprinkling tax the Mayor and Aldermen shall confine their operations to the property, merchants and privileges along the business section and along such streets as are sprinkled, so that those paying the tax shall get the benefit of the sprinkling.

Sec. 4. Be it further enacted, That the Mayor and Aldermen shall have the power to extend the provisions herein to any part or section of the town that they may deem proper and expedient for the comfort, convenience and health of the inhabitants.

2. To levy and collect taxes for general corporation purposes and for sprinkling purposes¹ upon merchants, and one or all the privileges, taxable by the laws of the State. The rate upon merchants and privileges to be such as the Mayor and Aldermen may provide for.²

3. To appropriate money and provide for the payment of the debts and expenses of the corporation.

4. To make regulations to prevent the introduction or spread of contagious diseases in the town; to make quarantine laws for this purpose, and enforce the same in two miles of the corporate limits.

5. To establish a system of free schools and regulate the same, but so as to avoid sectarian influence; to levy and collect taxes on the property, polls, merchants, and privileges taxable by the laws of the State, in order to keep up and maintain said public schools; to erect therefore public school buildings and improve the same. This shall be a special tax and known as the "City School Tax" and shall be kept separate and apart from other taxes; said tax shall not exceed twenty-five cents on each \$100 worth of property, one dollar on polls, and five-eighths of the tax levied on merchants and privileges by the State; to make with the district school directors, or proper school authorities, contracts by consolidation with the schools kept up by the State and County taxation, and to assist in keeping up same after consolidation, and to contract for erection or improving school buildings, and to do the same thing with the trustees or authorities of private schools or persons controlling and managing private school property, and for any of these purposes to appropriate any part or all of the city school tax mentioned.

6. In the event a free school system is not established for the town under the provisions of the preceding sub-section, the Board may make contracts with the proper authorities of any school or private school to assist in keeping up the same, and to assist in building and improving school buildings within the corporation limits, and for this purpose may levy and collect taxes on property, polls, merchants, and privileges, limited in amount as prescribed in Sub-section 5 and may appropriate said taxes for said purposes, or any of them.

7. To make regulations to secure the general health of the inhabitants and prevent and remove nuisances.

¹See footnote #2 on previous page.

²Acts 1903, ch. 220, § 4, provides as follows:

"Be it further enacted, That the Mayor and Aldermen of Newbern are authorized and empowered to make it a privilege and assess and collect a tax for same, by ordinance, for anyone not a licensed liveryman to haul for hire, or run a team hauling for hire, persons or freight within the limits of the said corporation of Newbern."

8. To open, alter, abolish, widen, extend, establish, grade, pave, or otherwise improve, clean, keep in repair streets, alleys, and sidewalks, and to compel lot owners to make and keep in repair safe and proper sidewalks and pavements, of such material and in such manner as the Mayor and Aldermen may prescribe by ordinance from time to time, adjoining their lots; and if the owner or owners of any lot or lots shall fail to comply with the provisions of any ordinance which may be passed for the construction of such sidewalk or pavement within such time as may be prescribed by said ordinance, the Mayor and Aldermen of Newbern, through its proper officer or committee, may contract for the construction of said sidewalk or pavement, and pay for the same, and the amount so paid shall be a lien on said lot, and may be enforced by attachment, in law or equity, or the amount may be recovered against said owner by suit before any court of competent jurisdiction.

9. To erect, establish, and keep in repair, bridges, culverts, sewers, and gutters.

10. To provide for lighting the streets, digging wells, cisterns and erecting pumps on the streets or public grounds.

11. To provide for the erection and improvement of all buildings necessary for the use of the corporation.

12. To provide for the enclosing, improving, and regulation of all public grounds and buildings belonging to or under the control of the corporation within or beyond the corporation limits.

13. To license, tax, and regulate merchants, peddlers, and all privileges taxable by the State.

14. To regulate or prohibit and suppress all gambling or gambling houses, bawdy houses, and all disorderly houses, and obscene pictures and literature.

15. To provide for the prevention and extinguishment of fires, both within and outside the corporate limits of the town of Newbern, to organize and establish fire companies, and to regulate the carrying on of manufactories dangerous in causing or producing fires.

16. To regulate the storing of gunpowder, tar, pitch, resin, saltpetre, guncotton, coal oil, and other combustibles, explosive or inflammable material, and the use of lights, candles, lamps, stove pipes, steam pipes, and chimneys in all store houses, dwellings, outhouses, shops, stables, or other places, and to regulate and suppress the sale of firecrackers or fireworks of all kinds.

17. To establish and regulate markets, market houses, and meat houses.

18. To impose fines, forfeitures, and penalties for the breach of any ordinance and to provide for their recovery and appropriation.

19. To provide for the arrest, imprisonment, and punishment of all rioters and disorderly persons within the town, by day or night; for the punishment of all breaches of the peace, noise, disturbances, and disorderly assemblies.

20. To impose fines or penalties upon the owner or owners, occupants or agents, of any house, wall, or sidewalk, or other structure which may be considered dangerous or detrimental to the citizens unless the same be removed or repaired after such notice be given as the Board may fix by ordinance.

21. To regulate, tax, license, or suppress the running at large of all animals¹ within the corporate limits; to take and impound the same, and in default of redemption, in pursuance of ordinance, to sell or kill the same.

22. To provide for the arrest and confinement or release, on appearance bond until trial, of all persons violating any of the corporate ordinances.

23. To provide for the appointment of a special police force at such times as the Board may determine, by ordinance.

24. To grant the right of way through, or over the streets, alleys, avenues, and squares of the town, to street or other railroad companies or persons.

25. To take and appropriate grounds for widening streets, or parts thereof, or for laying out new streets, avenues, squares, or parks, when public convenience requires it, under the provisions of Section 1338, and Sections 1388, 1389, 1391, of the Code.

26. To regulate or restrain or prohibit the erection of wooden buildings in any part of the city, or making additions thereto of wooden material, and this prohibition shall be enforced by appropriate ordinances.

27. To provide for any person who may fail to pay or secure at once, any fine or cost that may be imposed upon him or her, under any ordinance, to be committed to the calaboose until said fine or cost is paid. Every person so committed shall be required to work for the corporation at such labor as his health or strength will permit, not exceeding eight hours a day, and for such work, the person doing same, shall have, exclusive of board, a credit of fifty cents upon said fine or cost until said fine or cost is paid, when he shall be released; Provided, that no person shall be compelled to work or be confined longer than three months for any one offense.

28. To enact laws to prevent persons riding with dangerous speed in corporation; to prevent persons from stopping teams on crossings, and riding across the sidewalks; to place rubbish on the sidewalks; to place any obstruction on the sidewalks or in the streets; to injure public or private property of any kind.

29. To continue the operation and management of the high grade public school or schools in said town with all the authority and power vested in them by the Act of the Fifty-First General Assembly of Tennessee, Senate Bill No. 316, Chapter of Acts of Tennessee, 153, passed March 22, 1899, and entitled "An Act to amend an Act entitled 'An Act to incorporate the town of Newbern,

¹Priv. Acts 1929, ch. 632, is the current law with respect to animals running at large and is provided at the end of the charter.

in the County of Dyer; provide for the election of officers, and prescribe their duties, the same being Chapter 224 of the published Acts of the Legislature of 1887, so as to authorize and empower the town of Newbern to establish and maintain a system of high grade public schools, and provide funds for the Same." The said Mayor and Aldermen of Newbern under this charter will have all the powers, authorities, privileges, obligations and duties contained in and conferred by, or imposed upon the former Mayor and Aldermen of Newbern by the terms and provisions of said Act. And the directors or officers heretofore elected and qualified for the operation and management of the said school or schools shall have all the rights, privileges, powers, and authority and continue to hold their said offices and exercise and perform all the functions of the same until their successors are elected and qualified by the terms and provisions of the said Act as aforesaid.¹

30. To provide, by ordinance regularly passed, for the regulation and control of automobile vehicles, either passenger car, truck, or trailer, within the corporate limits of the said Town of Newbern, and as a means of regulation and control, the Board of Mayor and Aldermen are empowered to require any such motor vehicle to be licensed to operate on and use the streets and alleys and highways within said corporate limits, and to thus pay for the privilege of using said streets, alleys and highways in said corporate limits, and this shall include all such motor vehicles belonging to any party or parties, firms or corporations residing within the corporate limits of said Town of Newbern, and/or any such motor vehicles as are used to carry on business within said corporate limits generally, as distinguished from those who come into or pass through said town occasionally, whether the owner thereof lives within said corporate limits or not. The Board of Mayor and Aldermen are given the right to classify such motor vehicles for the purpose of licensing same, and to fix such license to be paid by each class at such amount as in their judgment will be fair and equitable for the privilege of using the said streets, alleys and highways within said town, but shall not require a privilege tax on any such motor vehicle in excess of Ten Dollars for any year. The Board of Mayor and Aldermen shall provide for the issuance of said license, and require the same to be issued and renewed each calendar year, beginning with the year 1939, and provide the means of designating on said vehicles whether the tax has been secured and paid or not; and to provide punishment for the failure to secure and keep said license tags on said vehicles in the same way and manner, in which they provide for punishment for the violation or any other ordinance of the said Town; and to do

¹The composition of the board of education, the terms of its members, and the date for electing such members has been changed from time to time since this subsection was enacted in 1901. Priv. Acts 1953, ch. 582 the controlling law now is provided at the end of the charter.

any and all things necessary to make effective the said ordinance requiring said motor vehicles to pay said privilege tax.

30A.¹ To license, tax, fix a reasonable limit on the number of retail liquor stores that may be operated in the said town at the same time, regulate retailers of liquors and to regulate the sale of alcoholic beverages.

31. To provide fees for issuing licenses to exercise taxable privileges not to exceed \$1.00 for each license.

32. To require the owner, agent of the owner or occupant, after notice and an opportunity to be heard, to repair or remove any dilapidated or dangerous building or structure; to repair or remove and charge the cost against such owner, agent of owner or occupant failing to comply with orders to repair or remove; to make the cost of repair or removal a lien against the property; to add such costs to taxes against the property, and to collect such costs, to which penalties and interest on delinquent property taxes shall apply, as a part of property taxes.

33. To exercise the same powers in Sub-section 32 to require the owner, agent of the owner or occupant, after notice and an opportunity to be heard, to remove obnoxious weeds, refuse, rubbish, abandoned or derelict automobiles or other vehicles, junk, discarded equipment, furniture or materials, grass or leaves which may be considered dangerous or detrimental to health or safety from any lot or parcel of land.

34. To make any utility or sanitary sewer service a lien against property served, and to deny such services to such property until any delinquent bills of the owner or tenants have been paid.

35. To furnish fire fighting services to property outside the corporate limits of the city on such terms and conditions as in the discretion of the Mayor and Aldermen will be reasonable, and equitable and just to the owners of property and the taxpayers of the city. In furnishing such services the city shall be considered in all respects as acting in a governmental capacity, and all officers, employees and agents of the city shall be entitled to all rights, privileges, exemptions and immunities as though such services were being performed within the corporate limits.

36. To impose compulsory service charges for garbage and refuse collection which may be billed and collected as part of any utility or sewer billing.

37. To regulate and exercise police powers over any property owned by the city outside its corporate limits, except territory within the boundaries of another city or town, to the same extent as territory within the corporate limits.

¹This subsection number is unofficial. Priv. Acts 1945, ch. 389, purported to add a subsection No. 30 but Priv. Acts 1939, ch. 570, had already added a subsection No. 30. Therefore, the compiler has arbitrarily numbered the second subsection No. 30 as No. 30A.

[As amended by Acts 1899, ch. 153; Acts 1903, ch. 220, § 3; Acts 1907, ch. 558, § 4; Priv. Acts 1911, ch. 442; Priv. Acts 1919, ch. 650, § 1; Priv. Acts 1933, ch. 179; Priv. Acts 1939, ch. 570, § 1(2); Priv. Acts 1945, ch. 389; Priv. Acts 1953, ch. 582; Priv. Acts 1967, ch. 83; and Priv. Acts 1969, ch. 192]

Elections--how held--when¹

Section 6. Be it further enacted, That beginning with the municipal election scheduled for November 6, 2012, the Mayor of Newbern shall be elected to a four (4) year term of office and there shall be an election for Mayor every four (4) years thereafter on the first Tuesday following the first Monday of November. Beginning with the municipal election scheduled for November 6, 2012, there shall be an election for each of the Town's six (6) aldermanic seats. For the purpose of staggering the aldermanic terms of office, the three (3) aldermanic candidates receiving the highest number of votes in the 2012 municipal election shall serve terms of four (4) years each and be subject to re-election every four (4) years thereafter; the three (3) aldermanic candidates receiving the lowest number of votes in the 2012 municipal election shall serve initial terms of two (2) years each and be subject to re-election every four (4) years thereafter. Elections shall be held biennially on the first Tuesday following the first Monday of November. [As amended by Acts 1909, ch. 382, § 2 and 3; Priv. Acts 1939, ch. 570, § 1(1); Priv. Acts 1943, ch. 467; Priv. Acts 1965, ch. 67; and Priv. Acts 1999, ch. 4, § 1; and replaced by Priv. Acts 2001, ch. 49; and Priv. Acts 2011, ch. 26, §§ 1 and 2]

Who may vote in town elections

Sec. 7. Be it further enacted. That all persons living within the limits of the Town of Newbern who would be qualified to vote for Members of the General Assembly of this state, and persons owning a free-hold within the bounds of the Town of Newbern and otherwise qualified to vote, shall be entitled to vote for the Mayor and Aldermen of the Town of Newbern. Persons eligible for the office of Mayor shall be citizens and qualified voters of the Town of Newbern;

¹Priv. Acts 1909, ch. 382, § 1, provides as follows:

"Be it enacted by the General Assembly of the State of Tennessee, That Chapter 450 of the Acts of 1901, the caption of which is set out in full in the caption of this Act, be, and the same is hereby, amended so as to provide that all elections to be held in and for said town of Newbern to select a Board of Mayor and Aldermen and any and all other officers and for other purposes coming under and falling within the scope of said Act be, and the same are hereby, directed to be held under and by authority of the general election laws of the State of Tennessee."

provided, however, that no person shall be entitled to hold office as both Mayor and Alderman concurrently. Persons eligible for the office of Alderman shall also be citizens and qualified voters of the Town of Newbern. In case of death, removal or resignation of the mayor or an alderman, the remaining members of the Board of Mayor and Aldermen shall have the power to fill such vacancy for the time unexpired. [As amended by Priv. Acts 1939, ch. 570, § 1(1); Priv. Acts 1943, ch. 467; Priv. Acts 1988, ch. 148, § 1; and replaced by Priv. Acts 1994, ch. 118, § 1; and Priv. Acts 2014, ch. 42, § 1]

Board to meet after election;
quorum; election of other agents

Sec. 8. Be it further enacted, That the persons elected Mayor and Aldermen, as provided in Section 7, shall meet on the day after election, or as soon thereafter as possible, and after being qualified, shall proceed to take charge of the property and to discharge the functions of their several offices in the affairs of said corporation, and four of the Aldermen, so elected and qualified as aforesaid, shall constitute a quorum for the transaction of all business, except the appropriation of money belonging to the said corporation, and the Mayor and Aldermen shall have power to elect such other agent or agents as they may deem necessary to aid them in transacting the business of the corporation, and may provide by ordinance for such purpose.¹ [As amended by Acts 1907, ch. 558, § 2, and Priv. Acts 1965, ch. 55]

Oath

Sec. 9. Be it further enacted, That the Mayor and Aldermen of said town, before entering upon the discharge of their duties, shall take an oath before some Justice of the Peace of Dyer County, to faithfully discharge their several duties as Mayor and Aldermen of said corporation.

Treasurer

Sec. 10. Be it further enacted. Persons eligible for appointment to the office of Treasurer shall be qualified to vote for members of the General Assembly of the State, and shall reside in Dyer County in or within fifteen (15) miles of the Municipal Boundaries of the Town of Newbern. The Treasurer shall be appointed by a majority vote of the Board of Mayor and Aldermen, inclusive of the vote of the Mayor. The Treasurer shall be supervised on a daily basis by the Mayor and shall serve until the Treasurer's resignation or termination

¹Priv. Acts 1965, ch. 55 is the current law with respect to management of the water and light plant and is provided at the end of the charter.

pursuant to the Town's personnel policies and procedures as adopted and amended from time to time by the Board of Mayor and Aldermen. The Treasurer's duties shall include all actions necessary and required to keep, maintain, and account for all of the Town's funds and investments including the preparation and maintenance of all ledgers, books, and records required for the management and accounting of said funds; the investment and reinvestment of said funds; the payment of said funds for the legitimate debts, expenses or obligations of the town or as otherwise directed by the Board; the issuance of statements and reports, monthly or otherwise, as the Board may direct, of the financial condition of the Treasurer's office and the funds of the corporation; and all such other and further duties and actions as the Board shall prescribe from time to time. Before entering upon discharge of the Treasurer's duties, the Treasurer shall give bond, with good security, payable to the Mayor and Aldermen of Newbern, and in such amounts as the Board may prescribe, for the faithful discharge of the duties of the Treasurer's office in every respect as prescribed by law or ordinance. [As amended by Priv. Acts 1965, ch. 54, §§ 1(2) and (3); and Priv. Acts 1988, 148, § 3; and replaced by Priv. Acts 2014, ch. 42, § 2]

Recorder

Sec. 11. Be it further enacted. Persons eligible for appointment to the Office of Recorder shall be qualified to vote for members of the General Assembly of the State, and shall reside in Dyer County in or within fifteen (15) miles of the Municipal Boundaries of the Town of Newbern. The Recorder shall be appointed by a majority vote of the Board of Mayor and Aldermen, inclusive of the vote of the Mayor. The Recorder shall be supervised on a daily basis by the Mayor and shall serve until the Recorder's resignation or termination pursuant to the Town's personnel policies and procedures as adopted and amended from time to time by the Board of Mayor and Aldermen. The Recorder's duties shall include all actions necessary and required to keep, maintain, and account for all the Town's books and records including the following:

1. Under the direction of the Mayor, prepare and monitor the annual budget for the Town and all its departments;
2. Assist the Treasurer in all accounting functions and the collection, disbursement and safe keeping of all the Town's funds; develop long-range financial planning; and act as advisor to the Board of Mayor and Aldermen on all questions related to the business and financial affairs of the Town;
3. Assist the Treasurer in keeping the Board of Mayor and Aldermen advised as to the financial condition of the Town and the future needs of the Town; develop and manage a central purchasing policy; and oversee the purchase of all materials, supplies and equipment for the

proper conduct of the Town's business through the issuance of purchase orders and competitive bidding as required by law;

4. Prepare the agenda for the meetings of the Board of Mayor and Aldermen and be responsible for the minutes and maintenance of the records of the proceedings of such meeting. The Recorder shall prepare resolutions and ordinances for consideration of the Board of Mayor and Aldermen, and shall maintain copies of all legislation adopted by the Board. The Recorder shall also attend all meetings of the Board of Mayor and Aldermen, all meetings of the Board's committees, and all other meetings as the Board shall request;

5. Be responsible for the maintenance of all types of insurance coverage for the Town and its employees, including, without limitation, property, liability, health, worker's compensation insurance, and an inventory of all equipment and real estate owned by the town;

6. Act as the Town's personnel officer by maintaining a personnel file on each of the Town's employees in a centralized location and supervise the administration of the Town's Personnel Policies and Procedures and the entire town's employees;

7. Represent the Town at official functions as directed by the Mayor or the Board; and

8. Perform all such other duties as directed by the Board of Mayor and Aldermen. [As amended by Acts 1903, ch. 220, § 2, and Acts 1907, ch. 558, § 3, and replaced by Priv. Acts 2011, ch. 26, §§ 3 and 4, and Priv. Acts 2014, ch. 42, § 3]

Chief of police¹

Sec. 12. Be it further enacted. Persons eligible for appointment to the Office of Chief of Police shall be qualified to vote for members of the General Assembly of the State, and shall reside in Dyer County in or within fifteen (15) miles of the Municipal Boundaries of the Town of Newbern. The Chief of Police shall be appointed by a majority vote of the Board of Mayor and Aldermen, inclusive of the vote of the Mayor. The Chief of Police shall be supervised on a daily basis by the Mayor and shall serve until the Chief's resignation or termination pursuant to the Town's personnel policies and procedures as adopted and amended from time to time by the Board of Mayor and Aldermen. The Chief of Police shall thoroughly acquaint himself or herself with the laws and Town Ordinances, and shall rigidly enforce them. The Chief of Police shall have authority as provided by the general laws of this state. The Chief of Police shall execute promptly all process that may come into the Chief's hands and make due return of same in thirty (30) days, showing what he or she has done, and the Chief of Police shall perform such other duties as may be imposed by the Board. The Chief of Police shall make report every thirty (30) days of the funds collected and turn same over to the Treasurer. The Chief of Police shall also serve as the Chief Law Enforcement Officer of the Town and, in such capacity, shall manage the operations of the Town's Police Department and shall supervise all employees of said Department. [As amended by Acts 1903, ch. 220,

¹Priv. Acts 1939, ch. 570, § 1(1), provided that the charter should be amended: "By striking from Section 6 of said Act, or any other part of same, all provisions requiring the Marshal of said Town of Newbern to be elected by the voters in said town on the Third Tuesday of November of every two years (the next said election in said town being on the Third Tuesday in November 1939) and to provide and require the Board of Mayor and Aldermen of said Town of Newbern to elect the Marshal of said Town of Newbern on Monday after the Third Tuesday in November every two years, the first election by the Board of Mayor and Aldermen to be held on the next Monday after the Third Tuesday in November 1939, and the person so elected as Marshal shall be inducted into his office as such on the 1st day of December 1939 and every two years thereafter, and if the first day of December falls on Sunday, then the time for his induction into office shall be on the following day. It shall be necessary to elect said Marshal by a majority of the votes of the Board of Mayor and Aldermen, the Mayor being allowed a vote in said election, and if there should be a tie vote in said election then the Mayor shall cast the deciding vote in addition to his vote as a member of the Board of Mayor and Aldermen; and said Marshal shall serve until his successor is elected and qualified." Priv. Acts 1988, ch. 148 amended § 12 by replacing "Marshal" with "Chief of Police" with no reference made to Priv. Acts 1939, ch. 570.

§ 1; Priv. Acts 1965, ch. 55, § 2; and Priv. Acts 1988, ch. 148, § 3; and replaced by Priv. Acts 2011, ch. 26, §§ 5 and 6; and Priv. Acts 2014, ch. 42, § 4]

Power of board to make contracts

Sec. 13. Be it further enacted, That the Board of Mayor and Aldermen shall have power to make all proper contracts necessary for corporate purposes which shall be made in the name of the corporation, and signed by the Mayor and Recorder, and no person shall have power to create any liability against the corporation except by express authority of the Board conferred at a meeting of the Board duly and regularly called.

Corporation property¹

Sec. 14. Be it further enacted, That the title to all property, real or personal, purchased by the corporation shall be conveyed to the Mayor and Recorder by name, in their official capacity, for the use and benefit of the Mayor and Aldermen of Newbern, and their successors and by them on behalf of the corporation, shall the title to property sold by the corporation be conveyed. The said Mayor and Recorder signing the deed or writing in their official capacity and under the seal of the said corporation.

Taxes--how assessed

Sec. 15. Be it further enacted, That property subject to taxation shall be assessed and listed for taxation in the name of the owner, or the reputed owner, alphabetically, for the entire town, and if real estate, giving the number of the lot or some description that will be sufficient to identify it in estimating the value of the property, the Assessor shall be governed by the assessment law of the State. Merchants and privileges of all kinds shall be taxed, and taxes on same collected as may be provided by ordinances. The assessment book shall be made out and completed by the first of April for the year for which the assessment is made, and delivered by said time to the Recorder who shall proceed at once to make out the tax book and shall complete the same by the first day of September of the said year at which time said taxes shall become due and payable, but the collector shall not enforce the collection of taxes until the first day of November of the same year, unless ordered to do so by the Board. All parties who have not paid their taxes by this time shall become delinquent and the Recorder shall at once make out a complete list of all such, showing the amount of taxes due from each taxpayer, and such penalty as the Board may

¹For further provisions relative to corporation property see § 4 in this charter.

prescribe by ordinance. When said list is made out, the Recorder shall make affidavit thereto before the Mayor or some Justice of the Peace that it contains a full and complete list of all delinquents, and the true amount due by each to the best of his information and belief. Said list shall be turned over to the Chief of Police, and shall be as to each delinquent equivalent to one execution in the hands of said Chief of Police, and with it he shall have the power to seize and take the goods and chattel rights and credits of said delinquents, sufficient to satisfy the amount due by each, and to do all other things authorized to be done by any officer, under an execution levied on such property, until the money is made. If the Recorder fails to make out said list promptly and in due time specified by ordinance, and turn same over to the Chief of Police, the Board may select someone else, or if the Chief of Police fails to enforce promptly the collection of said taxes the Board may select someone else for said purpose, the Chief of Police or other person shall keep a list until such time as the Board may prescribe for him to return said list and make final settlement. Accounts may be made out against delinquents at any time after the return of said lists for the amount of taxes, and suits be brought against the parties in the nature of an ordinary action of debt before any Justice of the Peace in the name of the Mayor and Aldermen of Newbern. If the taxes are on real estate the warrant may show what lot or lots, and that the taxes are a lien on said property and the lien may be enforced by a judgment and execution, or an attachment may issue showing some facts upon affidavit of Chief of Police or collector stating any of the causes mentioned in the Code for issuance of attachment at law. Assessed taxes on realty shall be and remain a lien thereon, until paid from and after the tenth day of January of the year the assessment is made.

Be it further enacted, That on all taxes not paid on or before the first day of November of each year a penalty of five per cent (5%) shall at once accrue, with an additional penalty of one per cent (1%) accruing on the first day of each month thereafter, until paid.

The accrual of the penalty as above provided shall in no respect affect the interest to be paid on said taxes from the date they become delinquent, which interest shall be one-half of one per cent (1/2%) per month thereafter, until paid, and such interest to be paid as if no penalty had been paid.

At any time after taxes have been delinquent for Ninety (90) days, the Mayor shall employ an attorney or attorneys to file suit in the Chancery Court to collect the delinquent taxes, and a penalty of ten per cent (10%) of the amount of the original tax shall accrue when such suit is filed, such penalty to be in addition to the penalty above provided, and which penalty shall be devoted to the expense of prosecuting said suits and shall be allowed to the attorney filing the suit as compensation for his services. [As amended by Priv. Acts 1947, ch. 404, and Priv. Acts 1988, ch. 148, § 4]

Distress warrants

Sec. 16. Be it further enacted, That the Recorder may issue and sign distress warrants and alias and pluries distress warrants to collect taxes on merchants and privileges, directed to the Chief of Police or officer, or he may sue for and recover the same in the nature of an action of debt before some Justice of the Peace.

The tax shall become due and payable the day the party commences business, and shall be for twelve months unless the party elects to take out license for less time.

The Mayor may also issue distress warrants against delinquents to collect the taxes, upon application of the Recorder or Chief of Police against parties who are not delinquent, who may be about to move out of the corporation or county, or fraudulently or about fraudulently to dispose of their property upon affidavits; said warrant shall be directed to the Chief of Police, or officer, and executed by him.

Said distress warrant in the hands of the officer shall give him the same power, and subject them to the same liabilities, as in the case of execution. [As amended by Priv. Acts 1988, ch. 148 § 5]

Arrests

Sec. 17. Be it further enacted, That when any person is arrested by the Chief of Police without warrant in hands, he shall proceed to have one issued and served, and the party notified of the time and place of trial after service of warrant, in any case, the Chief of Police or Mayor may take bond of said party, with good security, payable to the corporation in the sum of \$100, conditioned to be void only if the party makes his personal appearance at the time and place fixed for trial and not depart the court without leave of the Court, and failure so to do to pay said \$100. [As amended by Priv. Acts 1988, ch. 148, § 6]

(Repealed)

Sec. 18. This section was repealed by Priv. Acts 1983, ch. 4, § 1.

Bonds to be joint and several

Sec. 19. Be it further enacted, That the obligations of the official bonds and the appearance bonds herein mentioned shall be joint and several, and any one or all of the parties to any one of said bonds may be sued for breach thereof before any Justice of the Peace having jurisdiction, of the amount claimed or sued for, or before the Circuit Court.

Police authority

Sec. 20. Be it further enacted, That the police authority of the corporation and its officers, shall extend one mile beyond the corporate limits in every direction, to prevent and suppress fighting, quarreling, loud cursing, or swearing, or other unnecessary noise, or boisterous conduct, disorderly assemblies, or meetings and for these purposes the Board of Mayor and Aldermen may enact such laws as may be necessary to carry out the objects and meaning of this section, and the Chief of Police shall have the same right, power, and privilege, without warrant in hand, to arrest any offenders against said ordinances anywhere in the corporate limits, or within one mile of the corporation line, when the offense has been committed in the Police Chief's presence, or near enough for him to see or hear it committed, or with warrant in hand to arrest said offenders anywhere in the county. [As amended by Priv. Acts 1988, ch. 148, §§ 7 and 8]

Taxes--how equalized

Sec. 21. Be it further enacted, That the Board of Mayor and Aldermen shall have power, upon application of any taxpayer, to reduce or equalize and correct any illegal assessment; the Recorder shall assess for taxation on any omitted property and polls that may come to his knowledge, and collect the tax thereon and shall also assess any omitted property for any previous years, and collect same by suit or otherwise, as the Board may direct.

Absence of chief of police

Sec. 22. Be it further enacted, That in the absence of the Chief of Police, or his incapacity from any cause to serve, any constable or deputy sheriff may execute papers and discharge all the duties of the Chief of Police, or the Mayor may appoint a special officer to act in capacity of Chief of Police, and in the temporary absence or incapacity of the Mayor, the Vice-Mayor, as elected by the Board pursuant to ordinance, shall exercise the powers and perform the duties of the Mayor, and the removal of the Mayor or Chief of Police or any Alderman beyond the corporate limits will create a vacancy in said office. [As amended by Priv. Acts 1982, ch. 338, and Priv. Acts 1988, ch. 148, § 9]

Committees

Sec. 23. Be it further enacted, That the mayor and Aldermen shall have power to appoint all necessary and standing special committees, fix the number of each committee, and designate the duties of said committees, and may prescribe the mode of procedure for said committees.

Mayor pro tem

Sec. 24. Be it further enacted, That in case of a tie vote for Mayor, the Aldermen elect shall meet and organize by electing one of their number Mayor pro tempore, who shall, for the time being, perform all the duties and be subject to all liabilities, and the Board order the election of Mayor as soon as possible. In case of a contest in the election of Mayor on any other grounds than that of tie vote, the Board shall, after organizing, and electing a Mayor pro tempore, as above, decide as soon as possible who is entitled to the office. The Board may determine its own rules of proceeding and prescribe the punishment of its membership for nonattendance, disorderly conduct, or other improper conduct, and enforce the same, two-thirds of all the members concurring may expel a member for such conduct, and the Board may fully investigate charges against any of its officers or members, and the Mayor and Recorder, at the request of the Board, is hereby empowered to issue subpoenas or other papers and compulsory processes to compel the attendance and production of books and papers before the Board or any committee of the same. The stated meetings of the Board of Mayor and Aldermen may be held at such times as the Board of Mayor and Aldermen may determine by ordinance.

(Repealed)

Sec. 25. This section was repealed by Priv. Acts 1983, ch. 4, § 2.

City judge, city court clerk, etc.

Sec. 26. There is hereby created the office of city judge for the town of Newbern. Such city judge shall be a resident of Dyer County and shall be elected by the mayor and board of aldermen. His term of office shall be for a period of two (2) years and he shall hold his office after his election, until the next regular election of mayor and aldermen and until his successor is elected and qualified, but always subject to removal by the board. The city judge shall have such salary as the board may fix by ordinance or otherwise. He shall hold court from time to time as is necessary but at least one time each week.

The city judge shall have power and jurisdiction to hear and determine all charges of violations of the city ordinances and shall render judgment upon such charge. He shall have power to issue warrants for the arrest of persons alleged to have violated any city ordinances and all other necessary process. He shall likewise have power to commit to the city jail persons fined by him for such violations who do not pay or secure such fine. Appeals from the judgment of the city judge shall lie to the Circuit Court of Dyer County and shall be perfected in the same manner as are appeals from judgments of the Court of General Sessions except that the person so appealing shall execute bail or appearance bond.

The city judge shall have jurisdiction to hear and determine all charges of violations of the state law occurring within the corporate limits of the town of Newbern to the same extent as a judge of the Court of General Sessions now possesses and may bind offenders to the grand jury.

Where the judge finds it necessary to be absent from holding court, he may designate in a writing, to be filed with the clerk of the court, the name of a special judge or judges, to hold court in his place and stead, with the approval of the board of mayor and aldermen. Such person or persons shall have the qualifications of a city judge and shall have the same authority as the regular judge to hold court for the occasion.

In all matters involving charges of violations of the state law the costs and fees of said court shall be the same as provided by state law for Courts of General Sessions. In all matters involving charges of violations of city ordinances the costs and fees of said court shall be as determined and established by ordinance or resolution of the board of mayor and aldermen of the town of Newbern.

There is hereby created the office of city court clerk. The city court clerk shall be elected by the board of mayor and aldermen. The board may elect such assistant city court clerks as it deems necessary. The city court clerk and assistant city court clerks shall have the same authority and jurisdiction with the city court of Newbern as the clerk of General Sessions Court has with the Court of General Sessions.

The board of mayor and aldermen shall fix the compensation of the city court clerk and the assistant court clerks and may by ordinance prescribe additional duties to such clerk or the assistant clerks and regulate the performance thereof. [As replaced by Priv. Acts 1983, ch. 4, § 3]

Pavements

Sec. 27. Be it further enacted, That the Board of Mayor and Aldermen shall have power by ordinance to require the owners of business houses to place good, substantial brick or stone pavements in front of their houses.

Authority to pass necessary ordinances, etc.

Sec. 28. Be it further enacted, That the Board of Mayor and Aldermen shall have power to pass all by-laws and ordinances necessary and proper to enforce the powers granted not inconsistent with the constitution and laws of the United States and of the State of Tennessee. And said corporation shall enjoy all the rights, privileges, and powers which are now granted and conferred by law upon municipal corporations of a like kind within the State of Tennessee.

Mayor and aldermen, etc., under prior charter
to hold over until first election under this charter

Sec. 29. Be it further enacted, That nothing in this Act shall be construed to interfere with the present Mayor and Aldermen and other officers of the corporation, but shall proceed to execute the provisions of this Act and hold their offices until the next regular election, as herein provided, and until their successors are elected and qualified.

Date of effect

Sec. 30. Be it further enacted, That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed April 11, 1901.

Newton H. White,
Speaker of the Senate.

E. B. Wilson,
Speaker of the House of Representatives.

Approved April 20, 1901.

Benton McMillin,
Governor.

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Civil Service System Act

CHAPTER NO. 56¹

House Bill No. 309
(By Ewell)

AN ACT to amend the charter of the Town of Newbern, Tennessee.

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That the charter of the Town of Newbern, Tennessee, being Priv. Acts 1901, ch. 450, and Acts amendatory thereto, is hereby amended to authorize the adoption of a civil service or merit system. It is the intent of this Act to enable the Board of Mayor and Aldermen of the Town of Newbern to adopt such a personnel, merit system or civil service system as is adaptable to the needs of the Town. The system may consist of the mere establishment of minimum standards of employment and qualification for the various classes of employment, or of a comprehensive civil service system, as the Board of Mayor and Aldermen determines for the best interests of the public service.

Section 2. Be it further enacted, That the Board of Mayor and Aldermen may by ordinance establish a personnel system, merit system, or civil service system for the selection, employment, classification, advancement, suspension, discharge, and retirement of appointive officers and employees.

Section 3. Be it further enacted, That all offices and positions of employment of the Town may be included in the classified service except (a) the offices of Mayor and Aldermen, (b) the offices of independent boards and offices and positions of employment under the jurisdiction and control of such independent boards and (c) occasional or part time employees.

Section 4. Be it further enacted, That the Board of Mayor and Aldermen may provide for a civil service board or commission or personnel officer, to which it may delegate such powers and duties in relation to the system as it deems advisable.

Section 5. Be it further enacted, That the ordinance shall designate the departments, and the appointive offices and positions of employment which shall be included in the system. The ordinance may be amended to include additional departments and appointive offices and positions of employment.

¹Private Acts of 1965.

Section 6. Be it further enacted, That after inclusion in the system, no department, appointive office or position of employment shall be withdrawn, either by repeal of the civil service ordinance or otherwise, unless the withdrawal has been submitted to the voters of the Town at a special or regular municipal election and approved by a majority of those voting on the proposition. Departments, offices or positions of employment thus withdrawn from the system shall not again be included unless the proposal has been submitted to the voters of the Town at a special or regular municipal election and approved by a majority of those voting on the proposition.

Section 7. Be it further enacted, That the Board of Mayor and Aldermen may contract with any city or town in the State or any private person, corporation, association or partnership for (a) the conducting of competitive examinations to ascertain the fitness of applicants for offices or positions in the classified service or (b) the performance of any other service in connection with personnel selection and administration.

Section 8. Be it further enacted, That the ordinance adopting a civil service system shall provide that if the Board of Mayor and Aldermen determines that a reduction in personnel is necessary for economy reasons, it shall observe the seniority rule in putting the reduction into effect.

Section 9. Be it further enacted, That the ordinance adopting a civil service system shall provide that the inclusion of appointive offices to which a term is attached shall not become effective until the expiration of the term. No term of office shall be attached to any office after inclusion in the classified service.

Section 10. Be it further enacted, That this Act shall not be applicable to the Town of Newbern unless approved by a two-thirds vote of the Board of Mayor and Aldermen of the Town of Newbern before July 1, 1965. The Mayor shall certify the Board's approval or disapproval to the Secretary of State or inform him of the Board's failure to act before July 1, 1965.

Section 11. Be it further enacted, That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 17, 1965.

William L. Barry,
Speaker of the House of Representatives.

Jared Maddux,
Speaker of the Senate.

Approved: February 24, 1965.

Frank G. Clement,
Governor.

This is to certify that according to the official records on file in this office, House Bill No. 309, which is Chapter No. 56 of the Private Acts of 1965, was properly ratified and approved and is therefore operative and in effect in accordance with its provisions.

Joe C. Carr,
Secretary of State.

Rural Waterworks System Act

CHAPTER NO. 112¹

Senate Bill No. 627
(By Ewell)

Substituted for: House Bill No. 688
(By Gracey)

A PRIVATE ACT amending the charter of the town of Newbern, Tennessee authorizing the town of Newbern, of the State of Tennessee, to construct, acquire, improve, extend, operate and maintain a Newbern rural waterworks system, separate, apart, and distinct from its water and sewer system; prescribing the mode of procedure for and regulating the issuance and sale of bonds and other obligations to finance such Newbern rural waterworks system; providing for the fixing of rates and other charges; providing for the payment of such bonds and other obligations; and authorizing agreements with the holders of such bonds and other obligations.

Section 1. Be it enacted by the General Assembly of the State of Tennessee, as follows:

Section 2. That the Charter of the Town of Newbern, Tennessee, being Chapter 450, Private Acts of 1901, and acts amendatory thereto is hereby amended as herein set out and provided.

Section 3. That it is in the public interest that the Town of Newbern, in the State of Tennessee, be authorized and empowered to own and operate a waterworks, waterworks system and water distribution system outside of the corporate limits of said Town of Newbern and within the radius hereinafter set out and provided which system shall be named and designated and referred to as the NEWBERN RURAL WATERWORKS SYSTEM and which NEWBERN RURAL WATERWORKS SYSTEM shall be separate, apart and distinct from the water and sewer system of the Town of Newbern and which NEWBERN RURAL WATERWORKS SYSTEM shall not in any way be an extension, improvement, or addition of said water and sewer system now owned and operated by the Town of Newbern, as herein set out and provided.

¹Private Acts of 1967.

Section 4. That the Town of Newbern, within the State of Tennessee, is hereby authorized and empowered to own, acquire, construct, extend, equip, operate and maintain a waterworks, waterworks system and water distribution system, named, designated and referred to as the NEWBERN RURAL WATERWORKS SYSTEM within the State of Tennessee and within a radius of twenty miles from the territorial boundaries of said Town of Newbern, provided, that it shall not construct said system wholly or partly within the corporate limits of another municipality except with the consent of the governing body of such other municipality and provided further that it shall not extend its services into sections of roads or streets already occupied by other public agencies rendering the same service so long as such other public agency continues to render such service.

Section 5. The terms, "waterworks, waterworks system, and water distribution system" shall be construed to include all or any part of the following: source of supply, pumping facilities, purification works, storage facilities and distribution system, together with all necessary parts and appurtenances for proper operation.

Section 6. That in connection with said NEWBERN RURAL WATERWORKS SYSTEM, said Town shall have the right to do and perform the following acts:

(a) To accept from any Federal agency grants for or in aid of the construction thereof.

(b) To contract debts for the construction thereof, to borrow money, and to issue its bonds, to finance such construction and to provide for the rights of the holders of the bonds and to secure the bonds as hereinafter provided.

(c) To acquire by purchase, gift, or the exercise of eminent domain and to hold and dispose of any property, real or personal, tangible or intangible, or any right of interest in such property, whether or not subject to mortgages, liens, charges or other encumbrances and to construct said NEWBERN RURAL WATERWORKS SYSTEM subject thereto and provided that said Town shall not have the right to exercise the power of eminent domain of real or personal property which has been dedicated to a public use, or which is at the time being so used, unless the owners of authorities having jurisdiction over said property agree to such acquisition and provided further that said Town shall not construct any structure of any type or over any property which has been dedicated to public use, or which is at the time being so used, unless the owners or authorities having jurisdiction over said property, agree to the construction of such structure.

(d) To make contracts and to execute instruments containing such terms, provisions, and conditions as in the discretion of the

governing body of said Town may be necessary, proper, or advisable for the purpose of obtaining a grant, loan, or financial assistance from any federal agency; to make all other contracts Waterworks System Act and execute all other instruments necessary, proper, or advisable in or for the furtherance of said NEWBERN RURAL WATERWORKS SYSTEM, and to carry out and perform the terms and conditions of such contracts or instruments.

(e) To enter on any lands, waters and premises for the purposes of making surveys, soundings and examinations in and for the furtherance of said system.

(f) To subscribe to and comply with any act and any rules and regulations made by any federal agencies with regard to any grants, or loans or both from any federal agency.

(g) To perform any acts authorized under this Chapter through, or by means of its own officers, agents, and employees or by contracts of private corporations, firms, or individuals.

(h) To exercise, for the purpose of obtaining a grant, loan, or other financial assistance from any federal agency, any power conferred by this act independently or in connection with any other power or powers conferred by this act.

(i) To do all acts and things necessary or convenient to carry out the powers expressly given in this act.

(j) To cooperate with and receive grants from the State or other agency operating under the authority of the state, having funds available for the cooperation in the construction, acquiring, improving, extending, operating and maintaining said system.

(k) To issue, by resolution, notes in anticipation of the collection of revenues for any one or more years from said system and to renew such notes from time to time. The maximum maturity of such notes, including the renewals thereof, shall not exceed five (5) years from the original date of issuance of any such notes. Such notes shall be fully negotiable for all purposes. The notes shall be sold at public or private sales at not less than par and shall bear interest at the rate or rates which will not make the new rate interest cost to exceed six per cent (6%) per annum. Such notes, in the discretion of the governing body, may be paid from the proceeds of bonds issued pursuant to this act. The provision of this act for the payment and security of bonds issued pursuant to this act shall be equally applicable to such notes but the provisions of Section 9 of this act shall not be applicable thereto.

Section 7. That in connection with said NEWBERN RURAL WATERWORKS SYSTEM, said Town may use right-of-way, easement or other similar property right, necessary or convenient in connection with the acquisition, improvement, operation, or maintenance of said system, held by the

State of Tennessee or any other municipality, provided that such other municipality shall consent to such use.

Section 8. That bonds may be issued under this act notwithstanding and without regard to any limit on indebtedness provided by law.

Section 9. That in connection with said NEWBERN RURAL WATERWORKS SYSTEM, in determining the costs thereof, the following items may be included as a part of the cost of such system and financed by the issuance of such bonds: (a) engineering, inspection, accounting, fiscal and legal expenses; (b) the cost of issuance of the bonds, including engraving, printing, advertising, and other similar expenses; (c) any interest costs during the period of construction of such system and for six (6) months thereafter on money borrowed or estimated to be borrowed.

Before any bonds are issued under this act, the governing body of the municipality shall adopt a resolution (herein referred to as the "initial resolution") determining to issue the bonds, which resolution shall state in substance (a) the amount or maximum amount of bonds to be issued; (b) the purpose or purposes for which such bonds are to be issued; (c) the rate or maximum rate of interest which such bonds are to bear; (d) a brief concise statement of the fact that such bonds will be payable exclusively from revenues. Such initial resolution shall be published in full once in a newspaper published in Dyer County, Tennessee and circulating in the municipality. That thereafter said municipality shall have the right to issue its bonds, as herein provided and said bonds shall be designated "NEWBERN RURAL WATERWORKS SYSTEM BONDS, SERIES 19__."

Section 10. No election upon a proposition for the issuance of bonds under this act shall be necessary because the bonds are to be payable exclusively from the revenues from said system.

Section 11. The bonds may be issued in one or more series, may bear such date or dates, shall mature serially, at such time or times, not exceeding forty (40) years from their respective dates, may bear interest at such rate or rates, not exceeding five per cent (5%) per annum, payable annually or semi-annually, may be in such denomination, may be in such form, either coupon or registered, may be payable at such place or places, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, may be subject to such terms of redemption, with or without premium, all as may be provided by resolution of the governing body of the municipality. The bonds shall be fully negotiable for all purposes.

Section 12. Unless the bonds are sold to a federal agency, the bonds authorized to be issued by this chapter shall be sold at public sale after not less than fourteen (14) days advertisement thereof. The bonds may be sold at private sale without any public advertisement to any federal agency. The bonds may be sold in such blocks as the governing body may by resolution determine, but no bonds shall be sold at less than par and accrued interest.

Section 13. Pending the preparation or delivery of the definitive bonds for the purpose of financing the construction of said system, interim certificates or other temporary obligations may be issued by the municipality to the purchaser of such bonds. Such interim certificates or other temporary obligations shall be in such form and contain such terms, conditions, and provisions as the governing body of the municipality issuing the same may determine.

Section 14. Bonds issued under this act bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof any or all the persons whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same.

Section 15. Any resolution authorizing bonds under this act may provide that such bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and the regularity of their issuance.

Section 16. The bonds and income therefrom issued pursuant to this act shall be exempt from all state, county and municipal taxation, except inheritance, transfer and estate taxes.

Section 17. In order to secure the payment of any of the bonds issued pursuant to this act, and interest thereon, or in connection with such bonds, any municipality shall have power as to such bonds:

(a) To pledge all or any part of the rates, fees, and charges received or receivable by the municipality from said system to the punctual payment of any bonds, and the interest thereon, issued pursuant to this act to finance said system and to covenant against thereafter pledging any such rates, fees and charges to any other bonds or any other obligations of the municipality.

(b) To provide for the terms, forms, registration, exchange, execution, and authentication of such bonds.

(c) To provide for the replacement of lost, destroyed, or mutilated bonds.

(d) To covenant as to the use and disposition of the proceeds from the sale of such bonds.

(e) To covenant as to the rates, fees, and charges to be charged in connection with said system and as to the use and disposition to be made thereof.

(f) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.

(g) To redeem such bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(h) To covenant as to its books of account and as to the inspection and audit thereof and as to the accounting methods.

(i) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(j) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, conditions or obligation.

(k) To vest in a trustee or trustees the right to receive all of any part of the income and revenue pledged and assigned to, or for the benefit of, the holder or holders of bonds issued hereunder, and to hold, apply and dispose of the same and the right to enforce any covenant made to secure or pay in relation to the bonds; to execute and deliver a trust agreement or trust agreements which may set forth the powers and duties and the remedies available to such trustee or trustees and limiting the liabilities thereof and describing what happenings or occurrences shall constitute events of default and prescribing the terms and conditions upon which such trustee or trustees or the holder or holders of bonds of any specified amount or percentage of such bonds may exercise such rights and enforce any and all such covenants and resort to such remedies as may be appropriate.

(l) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties.

(m) To make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure such bonds, or in the discretion of the governing body of the municipality tend to make such bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; it being the purpose hereof to give the municipality power to do all things in the issuance of the bonds and for their security that may be consistent with the Constitution of the State of Tennessee.

Section 18. Any holder or holders of the bonds, including a trustee or trustees for holders of such bonds, shall have the right, in addition to all other rights:

(a) By mandamus or other suit, action or proceeding in any Court of competent jurisdiction to enforce his or their rights against the municipality, and the governing body of the municipality and any officer, agent or employee of the municipality, including, but not limited to, the right to require the municipality and the governing body and any proper officer, agent or employee of the municipality to fix and collect rates, fees and charges adequate to carry out any agreement as to, or pledge of, rates, fees and charges and to require the municipality and the governing body of the municipality and any officer, agent or employee of the municipality to carry out any other covenants and agreements and to perform its and their duties under this act.

Section 19. No holder or holders of any bonds shall ever have the right to compel any exercise of taxing power of the municipality to pay said bonds or the interest thereon. Each such bond issued under this chapter shall recite in substance that said bond, including interest thereon, is payable exclusively from the revenue pledged to the payment thereof, and that the holder of said bond shall have no recourse to the power of taxation.

Section 20. The municipality shall have power by resolution of its governing body to confer upon any holder or holders of a specified amount or percentage of bonds payable in whole or in part from the revenue of the said system, including a trustee or trustees for such holders, the right should there occur or happen an "event of default" as defined in such resolution or as may be defined in any agreement with the holder or holders of such bonds or the trustee or trustees therefor;

(a) By suit, action or proceedings in the chancery court to obtain the appointment of a receiver of said system of the municipality or any part or parts thereof. If such receiver be appointed he may enter and take possession of said system or any part or parts thereof and operate and maintain same, and collect and receive all rates, fees and charges thereafter arising therefrom in the same manner as the municipality itself might do and shall dispose of such money in a separate account or accounts and apply the same in accordance with the obligations of the municipality as the court shall direct.

(b) By suit, action or proceeding in the chancery court to require the governing body of the municipality to account as if it were the trustee of an express trust.

Section 21. The governing body of the municipality of the Town of Newbern issuing bonds payable exclusively from the revenue of said system

shall prescribe and collect reasonable rates, fees or charges for the services, facilities, and commodities of said system, and shall revise such rates, fees or charges from time to time whenever necessary so that the said system shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered including the accumulation during the first five (5) years of the operation of said system of a reserve equal to the average annual requirements for the payment of principal and interest on outstanding bonds issued pursuant to this act for said system, which reserve shall be accumulated at the rate of twenty per cent (20%) per annum, and (b) to provide for all expenses of operation and maintenance of said system, including reasonable reserves therefor.

Section 22. All proceeds received from the sale of bonds issued under this act and all rates, fees and charges received by the Town of Newbern from said system and all moneys received from any federal agency shall be paid to the financial officer or officers of the municipality designated for such purposes. Such financial officer or officers shall not commingle any money received from any federal agency, with any other moneys, but the moneys received from any federal agency shall be deposited in a separate bank account or accounts in the name of the municipality.

Section 23. The provisions of this act shall not operate to dispense with the approval by a state department, board, officer or commission of a public works project where such approval under existing provisions of the law must be obtained before a municipality may construct a public works project.

Section 24. All action required or authorized to be taken under this act by the governing body of the Town of Newbern may be by resolution, which resolution may be adopted at the meeting of the governing body at which such resolution is introduced, and shall take effect immediately upon such adoption. The resolution under this act need not be published or posted, except as herein provided, nor shall any such resolution be subject to veto by the chief executive officer of the Town of Newbern.

Section 25. The powers conferred by this act shall be in addition and supplemental to, and the limitations provided by this act shall not affect the powers conferred by any other law, and are not in substitution for the powers conferred by any other law. Bonds may be issued hereafter under the provisions of this act for said system notwithstanding that any Rural other law may provide for the issuance of bonds for like purposes and without regard to the requirements, restrictions, or procedural provisions contained in any other law, or any home rule charter, and the principal of and interest on any bonds issued

hereunder shall be exempt from all state, county and municipal taxation, except inheritance, transfer and estate taxes.

Section 26. That said NEWBERN RURAL WATERWORKS SYSTEM shall be separate, apart, distinct, and independent from the Water and Sewer System of the Town of Newbern and shall not in any way be an extension, improvement, or addition of said Water and Sewer System now owned and operated by the Town of Newbern and all records, rates, charges and other matters involving said NEWBERN RURAL WATERWORKS SYSTEM shall be kept separate and apart from the records et cetera of the Water and Sewer System now owned and operated by the Town of Newbern and the revenues from said NEWBERN RURAL WATERWORKS SYSTEM shall not belong to or be any part of the revenues of the Water and Sewer System of the Town of Newbern and shall not be any part of the revenues of said Water and Sewer System of the Town of Newbern in accordance with any resolutions heretofore adopted in connection with said Water and Sewer System, or otherwise.

Section 27. That, if any section, paragraph, clause, or provision of this act shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not effect any other provisions of this act.

Section 28. That this act shall not be applicable unless approved by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the Town of Newbern before the 1st day of July, 1967, and the Mayor shall certify the board's approval or disapproval to the Secretary of State or inform him of the board's failure to act before the 15th day of July, 1967.

Section 29. That this act shall take effect from and after its passage, the public welfare requiring it.

Passed: April 27, 1967.

Frank C. Gorrell,
Speaker of the Senate.

James H. Cummings,
Speaker of the House of Representatives.

Approved: April 27, 1967.

Buford Ellington,
Governor.

This is to certify that according to the official records on file in this office, Senate Bill No. 627, which is Chapter No. 112 of the Private Acts of 1967, was properly ratified and approved and is therefore operative and in effect in accordance with its provisions.

Joe C. Carr,
Secretary of State.

Revenue Anticipation Notes

CHAPTER NO. 5

House Bill No. 144

(By Messrs. Sparkman and Draper)

AN ACT authorizing the Mayor and Aldermen of Newbern, Tennessee, through its Board of Mayor and Aldermen, to issue from time to time negotiable interest-bearing coupon notes of said municipality in anticipation of current taxes levied upon all taxable property in the town, regulating the amount of notes that may be issued and outstanding at any one time, the amount of taxes that may be principal and interest of such notes as are authorized hereunder.

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That the Mayor and Aldermen of Newbern, Tennessee, through its Board of Mayor and Aldermen, in order to meet the general expenses of the municipality whenever it may become necessary, may borrow money and in evidence thereof issue its negotiable interest-bearing revenue anticipation notes in such amount as will not in the aggregate, including the interest thereon, exceed 75% of the then current tax levy for all municipal purposes, provided, however, that the amount of notes issued hereunder which may be outstanding at any one time shall never exceed 75% of current taxes levied for all purposes. Such revenue anticipation notes shall not bear a greater rate of interest than six per centum (6%) per annum, may, or may not have interest coupons attached representing the interest due thereon, shall be in such form as the Board of Mayor and Aldermen of the town of Newbern may prescribe, shall be signed by the Mayor and Recorder of said town with the corporate seal of said municipality affixed, shall be in such denomination and payable at such place or places as the governing body may prescribe, and shall be payable not later than February 1st, following the date of their issuance. The principal and interest of such notes shall be payable from the proceeds of the current tax levy, and no part of such tax levy shall be expended or used for any other purpose until a sufficient amount has been set apart to pay the principal and interest of notes issued in anticipation of said taxes; provided, that such notes shall be and hereby are declared general obligations of the Mayor and Aldermen of Newbern, Tennessee, and if for any reason the taxes anticipated are insufficient to liquidate the notes and interest thereon, it shall be the duty of the Board of Mayor and Aldermen to levy a special tax on all taxable property in the municipality sufficient to pay the notes and interest, or such portion thereof as may not have been taken care of out of the proceeds of taxes collected.

Sec. 2. Be it further enacted, That all laws and parts of laws in conflict herewith be and the same are hereby repealed, and that this Act take effect from and after its passage, the public welfare requiring it.

Passed January 16, 1931.

Walter M. Haynes,
Speaker of the House of Representatives.

Scott Fitzhugh,
Speaker of the Senate.

Approved January 20, 1931.

Henry H. Horton,
Governor.

Board of Education¹

CHAPTER NO. 582

House Bill No. 1278

(By Moore of Dyer)

AN ACT to amend Chapter 179 of the Private Acts of 1933, the caption of which is as follows: "AN ACT to amend AN ACT entitled: `AN ACT to amend the charter of the Town of Newbern so as to extend and define the boundaries of the town; reduce the Educational Board from nine to five members and providing for their election; abolish the office of Superintendent of Water and Light Plant and create and substitute the office of Manager; repeal that part of the Acts of 1903 abolishing the office of Recorder, being Chapter 558 of the Private Acts of 1907; `so as to amend Section 4 of said Act changing the number of members of the Board of Education, time and manner of election and their terms of office."

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That Chapter 179 of the Private Acts of 1933, the caption of which is quoted in the caption hereof, be and the same is hereby amended by striking out of said Act all of Section 1 in its entirety and substituting in lieu thereof a new Section 1 which shall read as follows:

"Section 1. Be it enacted by the General Assembly of the State of Tennessee, That an election has been called to be held on the second Saturday in April 1953 by the qualified voters of the Town of Newbern for the purpose of electing the six members who shall comprise the Board of Education. The two candidates receiving the highest number of votes in said election shall serve for six years as members of said Board of Education, and the two candidates receiving the next highest number of votes shall serve for 4 years, and the two candidates receiving the next highest number of votes shall serve for two years. The respective terms of all candidates shall begin on the third Tuesday in November 1953, and serve until their successors are elected and qualified.

That the present Board of Education elected in November 1947 shall continue in office until the third Tuesday in November 1953 at which time their successors shall have been elected in conformity with the provisions of this Act at the election held on the second Saturday in April 1953.

¹Private Acts of 1953.

That the actions, duties and functions performed by the present Board of Education are hereby expressly authorized, approved, confirmed and ratified."

Section 2. Be it further enacted, That on each biennial election on the third Tuesday in November two members of said Board of Education shall be elected whose terms of office shall be for six years.

Section 3. Be it further enacted, That it shall be the duty of the Mayor of said Town of Newbern to notify the election commission to provide for and hold the election for said Board of Education at the same time, with the same officers, and on the same ballot as provided for the election of the Mayor and Board of Aldermen.

Section 4. Be it further enacted, That this Acts shall take effect from and after its passage, the public welfare requiring it.

Passed: April 9, 1953.

James L. Bomar,
Speaker of the House of Representatives.

Jared Maddux,
Speaker of the Senate.

Approved: April 10, 1953.

Frank G. Clement,
Governor.

Special High School District¹

CHAPTER NO. 302

House Bill No. 606

(By Pierce)

AN ACT to repeal Chapter 627, Private Acts of 1929, the caption of which is as follows: "AN ACT to establish and create a Special High School District in Dyer County, Tennessee, co-extensive with the embracing part of the Sixth Civil District of Dyer County, including the Town of Newbern, and part of the Seventh, Eighth, and Ninth Civil Districts, within the said District, to be known as the Newbern Special High School District, to define its boundaries, to provide for the government, management and election of High School Officers for the same and to provide the means for raising the necessary funds for carrying out said purpose, to provide for an election to be held in said District to ascertain the will of the legal voters therein, with respect to the issuance of High School Bonds and upon affirmative vote of the people to issue, not exceeding Seventy-Five Thousand Dollars High School Bonds; the proceeds of the sale of said bonds to be used in securing grounds, erecting buildings, equipping the same for High School purposes within said District," and to dispose of the property of such school district.

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That Chapter 627, Private Acts of 1929, the caption of which is set forth in the caption of this Act, be and the same is hereby repealed.

Sec. 2. Be it further enacted, That all property, real, personal and mixed, of said Special School District as well as claims and choses in action belonging to it shall vest in the Town of Newbern for such corporate purposes as may be deemed advisable by the governing body of such Town.

Sec. 3. Be it further enacted, That this Act shall take effect from and after its passage, the public welfare requiring it.

¹Private Acts of 1949.

Passed: February 23, 1949.

McAllen Foutch,
Speaker of the House of Representatives.

Walter M. Haynes,
Speaker of the Senate.

Approved: February 25, 1949.

Gordon Browning,
Governor.

Water and Light Plant

CHAPTER NO. 55

House Bill No. 308

(By Ewell)

AN ACT to amend the charter of the Town of Newbern, Tennessee.

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That the charter of the Town of Newbern, Tennessee, being Chapter 450, Private Acts of 1901 and Acts amendatory thereto, is hereby amended for the purpose of placing the office or position charged with the management and supervision of the water and light plant and departments under the control of the Board of Mayor and Aldermen of Newbern as an appointive position.

Section 2. Be it further enacted, That Section 1 of Chapter 220, Private Acts of 1903, being an amendatory Act to the charter of the Town of Newbern is hereby rescinded in its entirety.

Section 3. Be it further enacted, That Section 2 of Chapter 558, Private Acts of 1907, being also an amendatory Act to the charter of the Town of Newbern is hereby rescinded in its entirety.

Section 4. Be it further enacted, That hereafter no term shall attach to the office of manager or superintendent of the water and light departments or plants, but the Board of Mayor and Aldermen of Newbern may appoint or elect such person as is the case with other municipal employees.

Section 5. Be it further enacted, That this Act shall not be applicable to the Town of Newbern unless approved by a two-thirds vote of the Board of Mayor and Aldermen of the Town of Newbern before July 1, 1965. The Mayor shall certify the Board's approval or disapproval to the Secretary of State or inform him of the Board's failure to act before July 1, 1965.

Section 6. Be it further enacted, That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 17, 1965.

William L. Barry,
Speaker of the House of Representatives.

Jared Maddux,
Speaker of the Senate.

Approved: February 24, 1965.

Frank G. Clement,
Governor.

This is to certify that according to the official records on file in this office, House Bill No. 308, which is Chapter No. 55 of the Private Acts of 1965, was properly ratified and approved and is therefore operative and in effect in accordance with its provisions.

Joe C. Carr,
Secretary of State.

Regulation of Fowls Running At Large

CHAPTER 632

House Bill No. 1417

(By Mr. Ward)

AN ACT to amend an Act entitled "An Act to incorporate the Town of Newbern, Tennessee, Dyer County, and establish the boundaries thereof, define the powers of same, provide for a Board of Mayor and Aldermen of said town, the manner of their election, and define the rights, powers and duties of said Board and for the purpose instant to the incorporating of said town by Chapter 450 of the Private Acts of 1901 so as to authorize the Mayor and Aldermen of Newbern, Tennessee, to prevent the running at large within the corporate limits of said town, chickens, ducks, geese, guineas and all other domestic fowls."

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That the Charter of the Mayor and Aldermen of Newbern, Tennessee, a municipality organized under the Acts of the General Assembly of the State of Tennessee by Chapter 450 of the Private Acts of 1901 be and the same is hereby amended so as to authorize and empower the said Mayor and Aldermen of Newbern in its corporate capacity and under the provisions of this amendment by resolution and ordinance to prevent the running at large within its corporate limits chickens, ducks, geese, guineas and all other domestic fowls and the said Mayor and Aldermen of Newbern, Tennessee, are hereby given the right and authority to prevent the running at large within the corporate limits of said town chickens, ducks, geese, guineas and all other fowls.

Sec. 2. Be it further enacted, That the said Mayor and Aldermen of the said Town of Newbern, Tennessee, by proper resolution and ordinance, shall have the right to prohibit and prevent the running at large of said fowls within the corporate limits of said town of Newbern, Tennessee.

Sec. 3. Be it further enacted, That any person or persons who willfully and knowingly violate Sections 1 and 2 of this Act shall be guilty of a misdemeanor and shall be fined not less than Five Dollars (\$5.00) nor more than Fifty Dollars (\$50.00).

Sec. 4. Be it further enacted, That each day such fowls as enumerated above be permitted to run at large shall be termed a separate offense.

Sec. 5. Be it further enacted, That all laws that conflict with this act be repealed; that this Act take effect from and after its passage, the public welfare requiring it.

Passed April 11, 1929.

Chas H. Love,
Speaker of the House of Representatives.

S. R. Bratton,
Speaker of the Senate.

Approved April 13, 1929.

Henry H. Horton,
Governor.

Special Cemetery Fund

CHAPTER NO. 67

House Bill No. 307

(By Ewell)

AN ACT to amend the charter of the Town of Newbern, Tennessee.

Section 1. Be it further enacted by the General Assembly of the State of Tennessee, That the charter of the Town of Newbern, Tennessee, being Chapter 450, Private Acts of 1901 and Acts amendatory thereto, is hereby amended to authorize the Board of Mayor and Aldermen to establish a Special Cemetery Fund. Appropriations to the Fund may be made from the general funds of the Town, and all receipts from the sale of cemetery lots and income of the fund deposited in the fund shall not be subject to appropriation for any other purpose, but shall be used solely for the upkeep of and to make improvements to the Town cemetery. Such funds shall be kept separate and apart from all other funds of the Town.

Section 2. Be it further enacted, That the Board of Mayor and Aldermen may, by ordinance, create a board or commission to which may be delegated the power to control and manage the Town Cemetery Fund. The number of members of such board or commission, their qualifications, term of office, compensation, official bonds, and such other matters pertaining to the board or commission shall be as provided by ordinance. Such compensation of members of the board or commission as may be provided shall be payable only from the Special Cemetery Fund.

Section 3. Be it further enacted, That this Act shall not be applicable to the Town of Newbern, Tennessee, unless approved by a two-thirds vote of the Board of Mayor and Aldermen of the Town of Newbern, Tennessee before July 1, 1965. The Mayor shall certify the Board's approval or disapproval to the Secretary of State or inform him of the Board's failure to act before July 1, 1965.

Section 4. Be it further enacted, That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 17, 1965.

William L. Barry,
Speaker of the House of the Representatives.

Jared Maddux,
Speaker of the Senate.

Approved: March 3, 1965.

Frank G. Clement,
Governor.

This is to certify that according to the official records on file in this office, House Bill No. 307, which is Chapter No. 67 of the Private Acts of 1965, was properly ratified and approved and is therefore operative and in effect in accordance with its provisions.

Joe C. Carr,
Secretary of State.

Charter and Related Acts for Newbern, Tennessee

Year	Chapter	Subject
1899	153	Amended charter relative to board of education.
1901	450	Basic charter act.
1903	220	Amended Acts 1901, ch. 450 relative to the marshal, recorder, mayor, city clerk, and board of education, and authorized a privilege tax on hauling for hire.
1905	62	Amended Acts 1901, ch. 450 relative to the corporate limits.
1905	140	Amended Acts 1901, ch. 450 relative to the corporate limits.
1905	357	Amended Acts 1901, ch. 450 relative to the corporate limits.
1907	117	Authorized \$50,000 bond issue for schools, water and lights, and streets.
1907	558	Amended Acts 1901, ch. 450 relative to the corporate limits, management of the water and light plant, the recorder, and the board of education.
1909	382	Amended Acts 1901, ch. 450 relative to municipal elections.

Year	Chapter	Subject
1911	442	Amended Acts 1901, ch. 450 by requiring the construction and maintenance of sidewalks.
1915	298	Abutting property law.
1917	53	Authorized \$22,000 bond issue for paying floating indebtedness.
1919	650	Amended Acts 1901, ch. 450 to authorize street sprinkling and a tax therefor.
1919	729	Abutting property law.
1923	142	Amended Acts 1907, ch. 558 to extend the corporate limits.
1929	627	Amended Acts 1901, ch. 450 to authorize a Special High School District.
1929	632	Amended Acts 1901, ch. 450 to authorize the regulation of fowls running at large.
1931	5	Authorized issuance of revenue anticipation notes.
1931	6	Authorized \$15,000 bond issue for schools.
1931	7	Authorized \$25,000 bond issue for paying floating indebtedness.
1931	12	Authorized \$35,000.00 bond issue for Newbern Special High School District.

Year	Chapter	Subject
1931	794	Authorized \$50,000 bond issue for water and lights.
1933	179	Amended Acts 1901, ch. 450 relative to the board of education.
1935	815	Authorized \$75,000 refunding bond issue.
1939	570	Amended Acts 1901, ch. 450 relative to the marshal and the board's authority to regulate and license motor vehicles.
1943	163	Validated \$17,000 funding bond issue.
1943	388	Amended Priv. Acts 1929, ch. 627 relative to a Special High School District.
1943	467	Amended Acts 1901, ch. 450 relative to the recorder.
1945	389	Amended Acts 1901, ch. 450 relative to retail liquor stores and the sale of alcoholic beverages.
1947	363	Authorized \$50,000 bond issue for waterworks and war memorial building.
1947	404	Amended Acts 1901, ch. 450 relative to tax due dates, etc.

Year	Chapter	Subject
1947	573	Amended Priv. Acts 1929, ch. 627, authorizing a Special High School District.
1949	302	Replaced Priv. Acts 1929, ch. 627, authorizing a Special High School District.
1953	424	Amended Acts 1901, ch. 450 relative to the corporate limits.
1953	562	Amended Acts 1901, ch. 450 relative to the corporate limits.
1953	582	Amended Priv. Acts 1933, ch. 179 relative to the board of education.
1965	54	Amended Acts 1901, ch. 450 relative to the sale of corporate property and relative to the treasurer and the paying out of corporate funds.
1965	55	Amended Acts 1901, ch. 450 relative to the management of the water and light plant.
1965	56	Amended Acts 1901, ch. 450 to authorize a civil service or personnel merit system.
1965	66	Amended Acts 1901, ch. 450 and Priv. Acts 1909, ch. 382 relative to municipal elections.

Year	Chapter	Subject
1965	67	Amended Acts 1901, ch. 450 to authorize a special cemetery fund and board.
1967	83	Amended Acts 1901, ch. 450 to add additional ordinance powers for the board.
1967	112	Amended Acts 1901, ch. 450 to authorize a "rural waterworks system."
1969	192	Amended Acts 1901, ch. 450 to authorize outside fire service.
1977	119	Amended Acts 1901, ch. 450 to authorize borrowing to purchase fire fighting equipment.
1982	338	Amended Acts 1901, ch. 450 to authorize a vice-mayor.
1983	4	Amended Acts 1901, ch. 450 to provide for a city judge, city court clerk, etc.
1988	148	Amended Acts 1901, ch. 450, Priv. Acts 1947, ch. 404, Priv. Acts 1965, ch. 54, and Priv. Acts 1982, ch. 338 relative to city elections, treasurer, marshal, property taxes, distress warrants, bonds and police authority.

Year	Chapter	Subject
1994	118	Amended Acts 1901, ch. 450, as amended by Priv. Acts 1988, ch. 148 relative to who may vote in town elections (Charter, section 7).
1999	4	Amended Acts 1901, ch. 450, as amended by Priv. Acts 1939, ch. 570, as amended by Priv. Acts of 1943, ch. 467, as amended by Priv. Acts 1965, ch. 67, relative to election and term of service.
2001	49	Replaced § 6 relative to the election of the mayor and aldermen.
2011	26	Replaced § 6 relative to the election of the mayor and aldermen; replaced § 11 relative to appointment and duties of the city recorder; and replaced § 12 relative to appointment and duties of the chief of police.
2014	42	Replaced § 7 relative to who can vote; § 10 relative to treasurer; § 11 relative to recorder; and § 12 relative to chief of police.

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR AND VICE-MAYOR.
3. RECORDER.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

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

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M. on the third Tuesday of each month at the city hall. (1982 Code, § 1-101, modified)

¹Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²Charter references

Election of board: § 6.

Mayor pro tem: § 24.

Oath: § 9.

Powers: § 5.

Quorum: § 8.

Vacancies in office: § 7.

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Presentations from citizens and visitors.
- (5) Communications from the mayor.
- (6) Reports from departments, committees, and officers of the town.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1982 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1982 Code, § 1-103, modified)

1-104. Compensation of aldermen. Each alderman, except the mayor, shall receive the sum of one hundred and no/100 dollars (\$100.00) per month, payable monthly, as total compensation for his services and attendance at all regular and special meetings. This will not, however, prevent the reimbursement of an alderman for any mileage, meals, lodging, or other out-of-pocket expenses incurred by him for municipal business when claims therefor are supported by itemized and signed expense accounts. (1982 Code, § 1-104, as amended by Ord. #87-5, Dec. 1987)

1-105. Adoption and amendment of ordinances. Each ordinance adopted by the board of mayor and aldermen shall be in writing before being considered by the board, shall be considered and voted on by the board at two (2) lawful meetings held on two (2) separate days, and shall be adopted by a majority vote of those board members present each time it is considered. Votes shall be taken by calling the "ayes" and "noes" which shall be recorded in the minutes of the board. Any ordinance not so adopted shall be null and void. No ordinance which has been finally adopted shall be amended except by a new ordinance. (1982 Code, § 1-105)

CHAPTER 2

MAYOR AND VICE-MAYOR¹

SECTION

- 1-201. Generally supervises municipality's affairs.
- 1-202. Executes municipality's contracts.
- 1-203. Compensation.
- 1-204. Suspension of officers.
- 1-205. Vice-mayor.

1-201. Generally supervises municipality's affairs. The mayor shall have general supervision of all affairs of the municipality and may require such reports from the officers and employees of the municipality as the governing body requests or as he may deem necessary to carry out his executive responsibilities. (1982 Code, § 1-201)

1-202. Executes municipality's contracts. The mayor shall, together with the recorder, execute all contracts as authorized by the board of mayor and aldermen. (1982 Code, § 1-202)

1-203. Compensation. The mayor shall receive the sum of four hundred and no/100 dollars (\$400.00) per month, payable monthly, as total compensation for his services and attendance at regular and special meetings. Nothing, however, shall prevent his reimbursement for any mileage, meals, lodging, or other out of pocket expenses incurred on behalf of the town when his claim therefor is supported by itemized and signed expense accounts. (1982 Code, § 1-203, as amended by Ord. #87-5, Dec. 1987)

1-204. Suspension of officers. The mayor shall have power to suspend any city officer for misconduct or dereliction of duty in office, reporting such action, with his reasons therefor, in writing, within 24 hours, to a special meeting of the board. (1982 Code, § 1-204)

1-205. Vice-mayor. The board of mayor and aldermen shall elect a vice-mayor to serve at the will and pleasure of the board. The vice-mayor shall exercise the powers and perform the duties of the mayor during the latter's

¹Charter reference

Oath: § 9.

Powers: § 5.

Mayor pro tem: § 24.

temporary absence or incapacity and until a new mayor is appointed by the board in case of a vacancy in the office of mayor. (1982 Code, § 1-205)

CHAPTER 3

RECORDER¹

SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. Before assuming the duties of his office, the recorder shall be bonded in such sum as may be fixed by, and with such corporate surety as may be acceptable to, the board of mayor and aldermen. (1982 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1982 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the municipality which are not assigned by the charter, this code, or the board to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1982 Code, § 1-303)

¹Charter references

Duties: § 11.

Issuance of distress warrants: § 16.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

(RESERVED FOR FUTURE USE)

TITLE 3

MUNICIPAL COURT¹

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. (1) Number of judges. The board of mayor and aldermen ("board") shall establish from time to time, by ordinance, the number of persons who shall serve as city judge. By Ord. #93-3 such number is established as one (1).

(2) Qualifications and term. All persons serving as city judge shall meet the qualifications established by art. VI, § 4 of the Tennessee Constitution and other state law to-wit: they shall be thirty (30) years of age, shall before this election have been a resident of the State of Tennessee for five (5) years and a resident of Dyer County for one (1) year, shall be licensed to practice law in Tennessee, and shall be elected by the qualified voters of the city for a term of eight (8) years, (a) except for certain instances in which a person(s) may be appointed as city judge for a term which shall expire after the next applicable regular November general election, and (b) except for any initial term of elected service which may be shorter, all as provided hereinafter.

(3) Jurisdiction and powers. The jurisdiction of the city judge shall extend to the trial of all offenses against the ordinances of the town and concurrently with the Court of General Sessions of Dyer County, Tennessee, for violation of the criminal law of the state. Costs in trials of offenses against the ordinances of the town shall be provided by ordinance. Costs in other matters shall be established under general law of the State of Tennessee. The city judge shall have the power to levy fines, penalties and costs, to issue all necessary process, to administer oaths and to maintain order, including the power to

¹Charter references

City judge, city court clerk, etc.: § 26.

punish for contempt by fine or confinement not exceeding the limits provided by general law.

(4) Bail. The bail of persons arrested and awaiting trials and persons appealing the decision of a city judge shall be fixed by the city judge and upon such security as in his discretion he deems necessary or as otherwise may be provided by ordinance or general law.

(5) Separation of powers. The city judge shall be the exclusive judge of the law and facts in every case before him and no official or employee of the town shall attempt to influence his decision except through pertinent facts presented in court.

(6) Popular election of judge. The city judge shall be popularly elected, as hereinafter provided, subject to the provisions for initial appointments as provided for herein and appointments to fill any vacancy.

(7) Term, election procedure. The term of office of city judge shall be eight (8) years, except for any initial term that may be shorter as provided herein. The board may appoint a qualified person to serve in the position of city judge until the next regular November general election. The first city judge popularly elected pursuant to this chapter and state law shall be elected at the next regular November general election that takes place at least thirty (30) days after this chapter becomes effective. The person elected at the aforesaid election shall serve only until replaced by a successor to be chosen at the next regular judicial election held in accordance with art. VII, § 5 of the Tennessee Constitution.

(8) Vacancy. A vacancy in the office of city judge shall be filled by appointment by the board. The person appointed, however, may serve only until the next regular November election. At such election, a person shall be elected to serve any unexpired term if the full term of his successor is not filled at such election. In the temporary absence or inability of a city judge, the board shall appoint a qualified person to serve until the judge's return.

(9) Compensation. The salary and any other benefits relating to the office of city judge shall be established by the board by ordinance prior to the commencement of the term of office and shall not be increased nor decreased during such term. The salary shall be paid monthly from the general fund of the city. In addition, as part of the compensation relating to the office of city judge, a city judge, if otherwise eligible for coverage under the benefit plans of the city, shall be afforded the same coverage under such plans, at the expense of the city, as is generally afforded to the other employees of the city.

(10) Records; docket; city clerk. The town does not elect, as permitted by the law of the State of Tennessee to require the city court clerk to be elected. The city court clerk shall have the duty of maintaining all records of the city court in accordance with applicable laws. The board shall require the proper maintenance of the docket of the city court and other records of the court. Subject to general law and the authority of the city judge, the board shall fix the

Change 9, January 18, 2005

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regular time for holding court. (Ord. #93-3, May 1993, as replaced by Ord. #2004-1, March 2004)

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.
- 3-206. City court clerk.
- 3-207. Assistant city court clerks.
- 3-208. Special judge.
- 3-209. Salaries of city court judge; special judge or judges, city court clerk, and assistant city court clerks.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name, warrant and/or summons numbers, alleged offense, disposition, fines and costs imposed and whether collected, whether committed to workhouse; and all other information which may be relevant. (1982 Code, § 1-502)

3-202. Imposition of fines and costs. All fines and costs shall be imposed and recorded by the city judge on the city court docket in open court. In all cases the costs shall be \$59.25 on regular warrants, and \$59.25 on traffic tickets. Both regular warrants and traffic tickets shall be subject to the \$13.75 state litigation tax. In all state cases, the costs shall be the same as charged by general sessions courts for similar work. (1982 Code, § 1-507, modified)

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, costs and forfeitures shall be recorded by the court clerk and paid over daily to the town. At the end of each month the clerk shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1982 Code, § 1-510)

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. (1982 Code, § 1-512)

3-205. Trial and disposition of cases. Every person charged with violating a town ordinance or state statute shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1982 Code, § 1-505)

3-206. City court clerk. The officer designated by the town charter to administer the clerical affairs of the city court shall be known as the city court clerk and shall hold and exercise the powers and authority granted in the charter as well as any and all other authorized power lawfully granted it and shall be responsible for the daily administration of the clerical affairs of the court. (1982 Code, § 1-513)

3-207. Assistant city court clerks. The officer or officers designated by the town charter to assist the city court clerk in its duties shall be known as assistant city court clerks and shall hold and exercise the powers and authority granted in the charter as well as any and all other authority and power lawfully granted and shall assist the city court clerk in its administrative duties. (1982 Code, § 1-514)

3-208. Special judge. The officer or officers designated by the town charter to serve as judge of the city court in the place and stead of the city judge shall be known as the special judge or judges and shall hold and exercise the powers and authority granted thereto in the city charter. The special judge or judges shall be chosen by the following procedure: Upon his appointment, the city judge shall submit the names of no fewer than five persons possessing the qualifications for the position of special judge to the board of mayor and aldermen as nominees for the office of special judge. The board of mayor and aldermen shall thereafter review and consider the nominees and appoint one or more of same to the office of special judge. If upon its review of the nominees, the board of mayor and aldermen deems it necessary or appropriate to consider additional nominees, it may direct the city judge to nominate additional persons for consideration of the office. Upon appointment by the board, the special judge shall be vested with the authority granted the office by the city charter. (1982 Code, § 1-515)

3-209. Salaries of city court judge, special judge or judges, city court clerk, and assistant city court clerks. The city court judge, special judge or judges, city court clerk and assistant city court clerks shall be paid such compensation by the town as affixed by the board of mayor and aldermen. (1982 Code, § 1-516)

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 town ordinances or state statutes. (1982 Code, § 1-511)

3-302. Issuance of summonses. When a complaint of an alleged town ordinance and state statutory violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons, ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1982 Code, § 1-503)

3-303. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1982 Code, § 1-504)

¹State 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 or protective custody. (1982 Code, § 1-506)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days¹ next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1982 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 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 or penalty 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 within the county. No other type bond shall be acceptable. (1982 Code, § 1-509)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL¹

CHAPTER

1. SOCIAL SECURITY--CITY PERSONNEL.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. INFECTIOUS DISEASE CONTROL POLICY.
4. TRAVEL REIMBURSEMENT REGULATIONS.
5. CODE OF ETHICS.

CHAPTER 1

SOCIAL SECURITY--CITY PERSONNEL

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.
- 4-106. Exclusions.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this municipality to provide for all eligible employees and officials of the municipality, 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 municipality shall take such action as may be required by applicable state and federal laws or regulations. (1982 Code, § 1-701)

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. (1982 Code, § 1-702)

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

¹Personnel policy and regulations are contained in the Town of Newbern Employee Handbook on file in the recorder's office.

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. (1982 Code, § 1-703)

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. (1982 Code, § 1-704)

4-105. Records and reports. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1982 Code, § 1-705)

4-106. Exclusions. There is hereby excluded from this chapter any authority to make any agreement with respect to emergency employees, part-time positions, part-time employees in fee-basis positions and elective officials rendering "legislative" and judicial services. Acting under § 2 of Emergency Ordinance passed and approved on May 1, 1956, the mayor is hereby directed to make and enter into an amendment to the Social Security Agreement of October 1, 1956, so as to extend the benefits of the System of Federal Old Age and Survivors Insurance to include part-time positions, effective January 1, 1979. This agreement is also to exclude the services performed by election officials and election workers if the remuneration paid for such services is less than \$100.00 in a calendar year, to be effective not earlier than the last day of the calendar quarter in which a modification to the agreement is mailed to the Federal Social Security Administration, pursuant to federal law. (1982 Code, § 1-706)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

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

4-201. Title. This section shall provide authority for establishing and administering the occupational safety and health plan for the employees of the City of Newbern. (1982 Code, § 1-1001, as replaced by Ord. #2003-03, June 2003)

4-202. Purpose. The Board of Mayor and Aldermen of the City of Newbern, 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. (1982 Code, § 1-1002, as replaced by Ord. #2003-3, June 2003)

4-203. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Newbern shall apply to all employees of each administrative department, commission, board, division or other agency of the City of Newbern whether part-time or full-time, seasonal or permanent. (1982 Code, § 1-1003, as replaced by Ord. #2003-3, June 2003)

4-204. Standards authorized. The occupational safety and health standards adopted by the Board of Mayor and Aldermen of the City of Newbern 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 (T.C.A. Title 50, Chapter 3). (as added by Ord. #2003-3, June 2003)

4-205. Variations from standards authorized. The City of Newbern 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, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Newbern 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 board of mayor and aldermen shall be deemed sufficient notice to employees. (as added by Ord. #2003-3, June 2003)

4-206. Administration. For the purposes of this chapter, the purchasing agent, is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop and administer the occupational safety and health program. The director shall develop a plan of operation for the program and said plan shall become a part 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. #2003-3, June 2003)

4-207. Funding the plan. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the board of mayor and aldermen. (as added by Ord. #2003-3, June 2003)

CHAPTER 3

INFECTIOUS DISEASE CONTROL POLICY

SECTION

- 4-301. Purpose.
- 4-302. Coverage.
- 4-303. Administration.
- 4-304. Definitions.
- 4-305. Policy statement.
- 4-306. General guidelines.
- 4-307. Fire and emergency medical services.
- 4-308. Law enforcement and security officers.
- 4-309. Housekeeping and sanitation.
- 4-310. Hepatitis B vaccinations.
- 4-311. Reporting potential exposure.
- 4-312. Hepatitis B virus post-exposure management.
- 4-313. Human immunodeficiency virus post-exposure management.
- 4-314. Disability benefits.
- 4-315. Training regular employees.
- 4-316. Training high risk employees.
- 4-317. Training new employees.
- 4-318. Records and reports.
- 4-319. Legal rights of victims of communicable diseases.

4-301. Purpose. It is the responsibility of the Town of Newbern to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the Town of Newbern, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (Ord. #92-4, Aug. 1992)

4-302. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;
- (3) Housekeeping and laundry workers;
- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (Ord. #92-4, Aug. 1992)

4-303. Administration. This infection control policy shall be administered by the mayor or his designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the town charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or body fluids;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to body fluids and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (Ord. #92-4, Aug. 1992)

4-304. Definitions. (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

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

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potential for life-threatening complications. Possible complications include:

massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

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

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with body fluids to be protected as though such body fluid were HBV or HIV infected. (Ord. #92-4, Aug. 1992)

4-305. Policy statement. All blood and body fluids are potentially infectious for several blood-borne pathogens and some body fluids can transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other body fluids which contain visible blood. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (Ord. #92-4, Aug. 1992)

4-306. General guidelines. General guidelines which shall be used by everyone include:

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

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

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

use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

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

- (a) While handling an individual where exposure is possible;
- (b) While cleaning or handling contaminated items or equipment;
- (c) While cleaning up an area that has been contaminated with one of the above;

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

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

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

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

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

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

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

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

All required tags shall meet the following criteria:

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

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

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

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

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

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (Ord. #92-4, Aug. 1992)

4-307. Fire and emergency medical services. These guidelines apply to fire and emergency medical services. This includes structural fire fighters, paramedics, emergency medical technicians, and advanced life support personnel. Fire and emergency medical service personnel are engaged in the delivery of medical care in the pre-hospital setting. The following guidelines are intended to assist these personnel in making decisions concerning use of personal protective equipment and resuscitation equipment, as well as for decontamination, disinfection, and disposal procedures.

(1) Appropriate personal protective equipment shall be made available routinely by the town to reduce the risk of exposure as defined above. For many situations, the chance that the rescuer will be exposed to blood and other body fluids can be determined in advance. Therefore, if the chances of being exposed to blood is high (e.g. CPR, IV insertion, trauma, delivering babies, etc...), the employee shall put on protective attire before beginning patient care.

(2) Disposable gloves shall be a standard component of emergency response equipment, and shall be donned by all personnel prior to initiating any emergency patient care tasks involving exposure to blood or other body fluids. Extra pairs shall always be available. For situations where large amounts of blood are likely to be encountered, it is important that gloves fit tightly at the wrist to prevent blood contamination of hands around the cuff. For multiple trauma victims, gloves should be changed between patient contacts, if the emergency situation allows.

Greater personal protective equipment measures are indicated for situations where broken glass and sharp edges are likely to be encountered, such as extricating a person from an automobile wreck. Structural fire fighting gloves that meet the Federal OSHA requirements for firefighters' gloves shall be worn in any situation where sharp or rough surfaces are likely to be encountered.

While wearing gloves, avoid handling personal items, such as combs and pens, that could become soiled or contaminated. Gloves that have become contaminated with blood or other body fluids should be removed as soon as possible, taking care to avoid skin contact with the exterior surface. Contaminated gloves shall be placed and transported in bags that prevent leakage and shall be disposed of properly. Reusable gloves shall be cleaned and disinfected immediately.

(3) Masks, eyewear, and gowns shall be present on all emergency vehicles that respond or potentially respond to medical emergencies or victim rescues. These protective barriers shall be used in accordance with the level of exposure encountered. Minor lacerations or small amounts of blood do not merit the same extent of barrier use as required for exsanguinating victims or massive arterial bleeding.

Management of the patient who is not bleeding, and who has no bloody body fluids present, should not routinely require use of barrier precautions. Masks and eyewear shall be worn together, or a faceshield shall be used by all personnel prior to any situation where splashes of blood or other body fluids are likely to occur. Gowns or aprons shall be worn to protect clothing from splashes with blood. If large splashes or quantities of blood are present or anticipated, impervious gowns or aprons shall be worn. An extra change of work clothing should also be available at all times.

(4) Disposable resuscitation equipment and devices shall be used once and disposed of or, if reusable, thoroughly cleaned and disinfected after each use. Mechanical respiratory assist devices such as bag-valve masks or oxygen

demand valve resuscitators shall be available on all emergency vehicles and to all emergency response personnel who respond or potentially respond to medical emergencies of victim rescues. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretions, and vomitus shall be provided to all personnel who provide or potentially provide emergency treatment. (Ord. #92-4, Aug. 1992)

4-308. Law enforcement and security officers. Law enforcement officers and security personnel may face the risk of exposure to blood during the conduct of their duties. There is an extremely diverse range of potential situations which may occur in the control of persons with unpredictable, violent, or psychotic behaviors. Therefore, informed judgment of the individual officer is paramount when unusual circumstance or events arise.

The following guidelines are intended to serve as an adjunct to rational decision making in those situations where specific guidelines do not exist, particularly where immediate action is required to preserve life or prevent significant injury.

(1) Law enforcement and security personnel are exposed to a range of assaultive and disruptive behavior through which they may potentially become exposed to blood or other body fluids containing blood. Behaviors of particular concern are biting attacks resulting in blood exposure and attacks with sharp objects. Such behavior may occur in a range of law enforcement situations including arrests, routine interrogations, domestic disputes, and lockup operations.

Hand-to-hand combat may result in bleeding and may thus incur a greater chance for blood-to-blood exposure.

In all cases, extreme caution must be used in dealing with suspects if there is any indication of assaultive or combative behavior. When blood is present and a suspect is combative or threatening to staff, gloves should always be put on as soon as conditions permit. In case of blood contamination of clothing, an extra change of clothing should be available at all times.

(2) Law enforcement personnel should also be concerned about infection through the administration of cardiopulmonary resuscitation. Protective masks or airways shall also be available to officers and provided with the proper training in their use.

(3) An officer should use great caution in searching the clothing of suspects. Individual discretion, based on the circumstances at hand, should determine if a suspect or prisoner should empty his/her own pocket or if the officer should use his own skills in determining the contents of a suspect's clothing. When a search is warranted the following guidelines shall be used:

(a) A safe distance should always be maintained between the officer and the suspect.

(b) Protective gloves should be worn if exposure to blood is likely to be encountered.

(c) Protective gloves should be used for all body cavity searches.

(d) If cotton gloves are to be worn when working with evidence of potential latent fingerprints value at the crime scene, they can be worn over protective disposable gloves when exposure to blood may occur.

(e) Always carry a flashlight, even during the daylight shifts, to search hidden areas. Whenever possible, use long handled mirrors and flashlights to search under car seats.

(f) If searching a purse, carefully empty contents directly from the purse, by turning it upside down over a table.

(g) Use puncture proof containers to store sharp instruments and clearly mark plastic bags to store other possibly contaminated items.

(h) To avoid tearing gloves, use evidence tape instead of metal staples to seal evidence.

(i) When possible evidence items should be air dried before sealing in plastic.

(4) Officers and crime scene technicians may confront unusual hazards, especially when the crime scene involves violent behavior, such as a homicide where large amounts of blood are present. Protective gloves shall be available and worn in this setting. In addition, for very large spills, consideration should be given to other protective clothing, such as overalls, aprons, boots, or protective shoe covers. They should be changed if torn or soiled, and always removed prior to leaving the scene. While wearing gloves, avoid handling personal items, such as combs and pens, that could become soiled or contaminated.

(5) Face masks and eye protection or a face shield are required for laboratory and evidence technicians whose jobs entail potential exposure to blood via a splash to the face, mouth, nose, or eyes. Airborne particles of dried blood may be generated when a stain is scraped.

(6) While processing the crime scene, personnel should be alert for the presence of sharp objects such as hypodermic needles, knives, razors, broken glass, nails, or other sharp objects.

(7) For detectives, investigators, evidence technicians, and others who may have to touch or remove a body, the response should be the same as for situations requiring CPR or first aid:

(a) Wear gloves and cover all cuts and abrasions to create a barrier and carefully wash all exposed areas after any contact with blood.

(b) The precautions to be used with blood and deceased persons should also be used when handling amputated limbs, hands, or other body parts.

(8) Protective masks and eyewear, laboratory coats, gloves, and waterproof aprons should be worn when performing or attending all autopsies. All autopsy material should be considered infectious for both HIV and HBV. On

lookers with an opportunity for exposure to blood splashes should be similarly protected. (Ord. #92-4, Aug. 1992)

4-309. Housekeeping and sanitation. All places of employment, passageways, storerooms, and service rooms shall be kept clean and orderly and in a sanitary condition. When a blood or body fluid spill occurs, one of the following disinfecting techniques shall be used:

(1) A chemical germicide that is approved for use as a hospital disinfectant shall be used.

(2) A product registered by Environmental Protection Agency as being effective against HIV shall be used. (Ord. #92-4, Aug. 1992)

4-310. Hepatitis B vaccinations. The Town of Newbern shall offer the appropriate hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator. (Ord. #92-4, Aug. 1992)

4-311. Reporting potential exposure. Town employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

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

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

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (Ord. #92-4, Aug. 1992)

4-312. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for Hbsag, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

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

If the source individual is negative for Hbsag and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (Ord. #92-4, Aug. 1992)

4-313. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested six weeks, 12 weeks, and six months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the town to all workers who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #92-4, Aug. 1992)

4-314. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303. (Ord. #92-4, Aug. 1992)

4-315. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or body fluids. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #92-4, Aug. 1992)

4-316. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (Ord. #92-4, Aug. 1992)

4-317. Training new employees. During the new employee's orientation to his/her job, all new employees will be trained on the effects of infectious disease prior to putting them to work. (Ord. #92-4, Aug. 1992)

4-318. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.

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

(4) Employee interviews. Should the town be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (Ord. #92-4, Aug. 1992)

4-319. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect the same level of service

and enforcement as any other individual would receive from a municipal employee, that police and emergency service officers are duty bound to provide.

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

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

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

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

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

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

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

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

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

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

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (Ord. #92-4, Aug. 1992)

CHAPTER 4

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-401. Enforcement.
- 4-402. General travel policy.
- 4-403. Travel reimbursement rate schedules.
- 4-404. Administrative procedures.

4-401. Enforcement. The mayor and recorder shall be responsible for the enforcement of these travel regulations. (Ord. #93-8, Jan. 1994)

4-402. General travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

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

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the town. It will be the responsibility of the recorder to initiate action to recover any undocumented travel advances.

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

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

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

- (a) directly related to the conduct of the town business for which travel was authorized, and

(b) actual, reasonable, and necessary under the circumstances. The mayor may make exceptions for unusual circumstances.

Expenses considered excessive will not be allowed.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the "original" paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

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

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (Ord. #93-8, Jan. 1994)

4-403. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the federal travel regulation rates. The town's travel reimbursement rates will automatically change when the federal travel regulation rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #93-8, Jan. 1994)

4-404. Administrative procedures. The town adopts and incorporates by reference as if fully set out herein the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in January 1994. A copy of the administrative procedures is on file in the office of the town recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after January 25, 1994. (Ord. #93-8, Jan. 1994)

CHAPTER 5

CODE OF ETHICS

SECTION

- 4-501. Applicability.
- 4-502. Definition of personal interest.
- 4-503. Disclosure of personal interest by official with vote.
- 4-504. Disclosure of personal interest in nonvoting matters.
- 4-505. Acceptance of gratuities.
- 4-506. Use of information.
- 4-507. Use of municipal time facilities, etc.
- 4-508. Use of position or authority.
- 4-509. Outside employment.
- 4-510. Ethics complaints.
- 4-511. Violations.

4-501. Applicability. This chapter is the code of ethics for personnel of the City of Newbern. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words, "municipal" and "municipality" include these separate entities. (as added by Ord. #07-03, June 2007)

4-502. Definitions. (1) For purposes of §§ 4-503 and 4-504, "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), sibling(s), child(ren), or stepchild(ren).

(2) The word's "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 state law take precedence over the provisions of this chapter. (as added by Ord. #07-03, June 2007)

4-503. 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 on 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/herself from voting on the measure. (as added by Ord. #07-03, June 2007)

4-504. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of discretion shall disclose, before the exercise of the discretion, when possible, the interest on a form provided by and file 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. #07-03, June 2007)

4-505. Acceptance of gratuities. 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. #07-03, June 2007)

4-506. 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. #07-03, June 2007)

4-507. 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. #07-03, June 2007)

4-508. 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. #07-03, June 2007)

4-509. 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. #07-03, June 2007)

4-510. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee, 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 make recommendations regarding retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The city attorney may request that the governing body hire another attorney, individual or entity to act as ethics officer when he has or will have a conflict of 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 does not have merit, or determine that the complaint warrants 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. #07-03, June 2007)

4-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action as provided in the City of Newborn Personnel Rules and Regulations. (as added by Ord. #07-03, June 2007)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depositories for town funds.
- 5-102. Security for municipal deposits.
- 5-103. Fiscal year.
- 5-104. Audit annually.
- 5-105. Budget.
- 5-106. Credit cards.

5-101. Official depositories for town funds. The Newbern Security State Bank, the Newbern Branch of the First Citizens Bank, and the Frontier Federal Savings and Loan Association are hereby designated as the official depositories for all municipal funds. (1982 Code, § 6-101)

5-102. Security for municipal deposits. From time to time, in the discretion of the board, said banks shall pledge bonds as security for any unusually large accumulation of town funds. Such security may consist of U. S. Treasury obligations, State of Tennessee, Dyer County or Newbern bonds, either general obligations or revenue obligations of any of the municipality's utility departments. Such security shall be held by the municipality in common for the protection of any and all of its departments, but, however, nothing in this arrangement shall affect the Federal Deposit Insurance Corporation's insuring protection to each and every account having its individual right and title to the maximum insurance as though such bond security was held separately and independently for each such account. (1982 Code, § 6-102)

¹Charter references

Distress warrants: § 16.

Taxes--how assessed: § 15.

Taxes--how equalized: § 21.

5-103. Fiscal year. The affairs of the general government and of all utility departments shall operate and be accounted for on a fiscal year ending on June 30th. (1982 Code, § 6-103)

5-104. Audit annually. As soon as practical after the close of each fiscal year, an audit shall be made, by a reputable auditing firm, of all affairs of the municipality including each utility department. (1982 Code, § 6-104)

5-105. Budget. A budget of each department of the town and its utilities shall be prepared covering expected revenues and operating expenses, which budget shall be presented to the board of mayor and aldermen at the regular May meeting. The budget shall be adopted finally no later than the regular July meeting at which time the tax rate for the incoming year shall be established sufficient to fully fund all appropriations as set out in aforesaid budget document, taking into consideration expected revenues from other sources. (1982 Code, § 6-105)

5-106. Credit cards. The mayor and town recorder are hereby authorized and directed to execute and attest respectfully the agreement between American Express Company and Exxon Oil Company for the purpose of obtaining credit cards from said companies to be used by town officials while on official business. (1982 Code, § 6-106)

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

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

5-201. When due and payable.¹ Taxes levied by the municipality against real property shall become due and payable annually on the first day of September of the year for which levied. (1982 Code, § 6-201)

5-202. When delinquent--penalty and interest.² All real property taxes shall become delinquent on and after the first day of November next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed the town's charter.³ (1982 Code, § 6-202)

¹State law references

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

²Charter and state law reference

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

³Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, §§ 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.

CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by the act. (1982 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1982 Code, § 6-302)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1982 Code, § 6-401)

¹State 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.

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST¹

SECTION

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

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders, rules, and regulations as are formulated by the governing body or by the police chief, whenever such office and title has been officially created by the governing body. (1982 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. (1982 Code, § 1-402)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1982 Code, § 1-403)

¹Municipal code reference

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

6-104. 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. (1982 Code, § 1-404)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any male person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1982 Code, § 1-405)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. When the city judge is not immediately available and the alleged offender does not post the required bond, he shall be confined. (1982 Code, § 1-406)

6-107. 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. (1982 Code, § 1-407)

¹Municipal code reference

Issuance of traffic citations, etc.: title 15, chapter 6.

CHAPTER 2

WORKHOUSE

SECTION

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

6-201. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1972 Code, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1972 Code, § 1-602)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him.¹ (1972 Code, § 1-603)

¹State law reference
Tennessee Code Annotated, § 40-24-104.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN LIMITS.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICT²

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits or district shall be and include all the areas of the town zoned as business districts. (1982 Code, § 7-101)

¹Municipal code reference

Building, utility and housing codes: title 12.

Fire and flushing hydrants: title 18, chapter 7.

²The significance of the fire limits is that Chapter 30 of the Standard Building Code, applicable to the Town of Newbern through title 12 of this code, imposes certain construction, modification and other requirements peculiar to buildings located within the fire district, and prohibits Hazardous (Group H) occupancies within the fire district. Chapter 4, Section 408 of the Standard Building Code defines Hazardous (Group H) occupancy in both general and specific terms, but generally it refers to occupancies involving highly combustible, flammable or explosive materials.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of municipality.
- 7-204. Gasoline trucks.
- 7-205. Variances.
- 7-206. Violations and penalties.

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 prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Standard Fire Prevention Code,² 1997 edition with 1992 revisions as recommended by the Southern Standard Building Code Congress International, Inc., 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 fire prevention code has been filed with the town recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1982 Code, § 7-201, modified, as amended by Ord. #98-13, Nov. 1998)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1982 Code, § 7-202)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Newbern, Tennessee. (1982 Code, § 7-203)

7-204. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business districts or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1982 Code, § 7-204)

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

²Copies of this code are available from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.

7-205. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1982 Code, § 7-205)

7-206. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard Fire Prevention 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 board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1982 Code, § 7-206)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Tenure and compensation of members.

7-306. 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 to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be and remain the property of the town. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firemen as the board of mayor and aldermen may approve upon recommendation of the chief. (1982 Code, § 7-301)

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. (1982 Code, § 7-302)

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 fire department. (1982 Code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1982 Code, § 7-304)

¹Municipal code reference

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

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the board of mayor and aldermen. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department.

All personnel of the fire department shall receive such compensation for their services as the board may from time to time prescribe. (1982 Code, § 7-305)

7-306. Chief responsible for training and maintenance. The 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. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1982 Code, § 7-306)

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 insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1982 Code, § 7-308)

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-401. Use of equipment outside corporate limits.

7-401. Use of equipment outside corporate limits. Equipment of the fire department may be used outside the corporate limits to provide fire protection to rural water customers. For this protective service a monthly charge, as set by the board of mayor and aldermen, will be added to the bill of the rural water customers. For all other residents inside the general area of the rural water system a dollar amount per call, as established by the board, will be charged. (1982 Code, § 7-307)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Fireworks defined.
- 7-502. Unlawful to sell, give away, manufacture, etc.
- 7-503. Use of fireworks restricted.
- 7-504. Occupants of automobiles deemed guilty.
- 7-505. Use by railroads, etc.
- 7-506. Controlled fireworks displays.
- 7-507. Code modifications.

7-501. Fireworks defined. The word "fireworks" as used herein is defined as any device or article containing explosive substances which, when fired, shot, or exploded makes a noise or produces a flare or colored lights, and said term "fireworks" shall be deemed to include, but shall not be limited to the following: Fire crackers, squibbs, Roman candles, sky rockets, Daygo bombs, sparklers, torpedoes, or any other devices or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, conflagration or detonation. (1982 Code, § 7-401)

7-502. Unlawful to sell, give away, manufacture, etc. It shall be unlawful to manufacture, display, sell, offer for sale, give away for the purpose of evading the term "sell" or store in commercial quantities fireworks within the corporate limits of the Town of Newbern. (1982 Code, § 7-402)

7-503. Use of fireworks restricted. It shall be unlawful for any person to fire, set off, shoot, discharge, or otherwise explode any fireworks within the corporate limits of the Town of Newbern, except that it is permissible for persons to fire, set off, shoot, discharge or otherwise explode fireworks at their residences providing that the igniting and final firing or exploding is done entirely within the property lines of the person doing the firing and provided that such firing is not objectionable to or does not create a nuisance insofar as other residences of the neighborhood are concerned. Streets, roadways, and alleys maintained by the State of Tennessee or the Town of Newbern and sidewalks adjacent to the property from which fireworks are being exploded or fired are to be construed as outside the property lines of the person exploding fireworks, it being the intent of this chapter to prohibit the use of fireworks on all public streets, roadways, alleys and sidewalks within the Town of Newbern. (1982 Code, § 7-403)

7-504. Occupants of automobiles deemed guilty. Should fireworks be exploded or shot or an attempt made to do so from an automobile, truck or any other propelled vehicle while same is being operated or stopped on any street, roadway, or alley maintained by the State of Tennessee or the Town of

Newbern, each occupant of said vehicle shall be guilty of a violation of this chapter. (1982 Code, § 7-404)

7-505. Use by railroads, etc. Nothing contained herein shall be construed as prohibiting the railroad or other transportation agencies from the use of fireworks for signal purposes or illumination. (1982 Code, § 7-405)

7-506. Controlled fireworks displays. Nothing contained herein shall be construed as preventing the state fire marshal from, in his discretion, upon application, issuing a permit to a properly qualified person for giving a pyrotechnic display of fireworks in a public park or open place. (1982 Code, § 7-406)

7-507. Code modifications. Any conflict between this chapter and the adopted fire prevention code shall be interpreted as having modified said fire prevention code so as to permit this chapter to control. (1982 Code, § 7-407)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Number of stores limited.
- 8-102. Location of stores restricted.

8-101. Number of stores limited. Pursuant to section 5, subsection 30A, of the charter of the municipality, there shall not be more than three (3) retail liquor stores operated within the corporate limits at one and the same time. (1982 Code, § 2-101)

8-102. Location of stores restricted. Pursuant to section 5, subsection 30A, of the charter of the municipality, the location of all liquor stores operated within the corporate limits shall be restricted to locations within the corporate limits bearing a municipal zoning classification of either B-1 or B-2. (1982 Code, § 2-102, as amended by Ord. #2000-9, Sept. 2000)

¹State law reference
Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

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. Issuance of permits to aliens prohibited.
- 8-210. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Revocation of beer permits.

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (1982 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 following each regular meeting of the board of mayor and aldermen at the town hall whenever 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. (1982 Code, § 2-202)

8-203. Record of beer board proceedings to be kept. The recorder shall make a separate record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of

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).

each member thereon; and the provisions of each beer permit issued by the board. (1982 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. (1982 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 municipality in accordance with the provisions of this chapter. (1982 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. (1982 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. Pursuant to Tennessee Code Annotated § 57-5-108, the beer board shall collect a non-refundable application fee of \$100.00. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (1982 Code, § 2-207)

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. (1982 Code, § 2-208)

8-209. Issuance of permits to aliens prohibited. No permit to engage in the beer business shall be granted by the beer board to any person not a citizen of the United States nor to any syndicate or association unless all of the members thereof are citizens of the United States. (1982 Code, § 2-209)

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within three hundred (300) feet of any school, church or other such place of public gathering, measured along street rights of way. (1982 Code, § 2-210)

8-211. 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. (1982 Code, § 2-211)

8-212. 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 offense involving moral turpitude within the past ten (10) years.

(2) Employ any person under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery or convenience stores selling beer for off-premises consumption only).

(3) Make or allow any sale or consumption of beer between the hours of 3:00 A.M. and 6:00 A.M. during any night of the week and between the hours of 3:00 A.M. and 12:00 noon on Sunday.

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

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

(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) Fail to provide and maintain separate sanitary toilet facilities for men and women. This provision shall not apply to grocery or convenience stores by selling beer for off-premises consumption only. (1982 Code, § 2-212, as amended by Ord. #87-2, Mar. 1987, Ord. #92-7, Nov. 1992, and Ord. #93-2, Apr. 1993)

8-213. Revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the

holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board. (1982 Code, § 2-213)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. CABLE TELEVISION.
6. CONTRACTORS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. Certain business prohibited on Sunday.
9-102. "Going out of business" sales.

9-101. Certain business prohibited on Sunday. It shall be unlawful for any person, firm, corporation, or association operating a general merchandise store, department store, hardware, jewelry, or furniture store, or other similar establishments in the municipality, to open such place or business on Sunday; or to sell or offer for sale, give away, or deliver any merchandise, hardware, jewelry, furniture, or other similar commodities or articles, on Sunday. (1982 Code, § 5-101)

9-102. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1982 Code, § 5-102)

¹Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Use of streets.
- 9-208. Exhibition of permit.
- 9-209. Policemen to enforce.
- 9-210. Revocation or suspension of permit.
- 9-211. Reapplication.
- 9-212. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit 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. (1982 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic, or philanthropic organizations. (1982 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the town recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

¹Municipal code references
Privilege taxes: title 5.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to evaluate the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance and, if so, the nature of the offense and the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1982 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be investigated by the town recorder within seventy-two (72) hours.

(2) If as a result of such investigation the applicant's moral reputation and/or business responsibility is found to be unsatisfactory the town recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the report indicates that the moral reputation and business responsibility of the applicant are satisfactory the town recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by section 9-206. The town recorder shall keep a permanent record of all permits issued. (1982 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the town recorder in the denial of a permit shall have the right to appeal to the board of mayor and 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. (1982 Code, § 5-205)

9-206. Bond. Every permittee shall file with the town recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1982 Code, § 5-206)

9-207. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. However, nothing contained in this section shall restrict the use of the area available for parking or stopping by the public, which area lies north of the present business district, provided space is available in said area and the parking or stopping is at such locations as may be designated by an on-duty police officer on each day that the parking or stopping is desired by the peddler or itinerant or transient merchant. (1982 Code, § 5-207)

9-208. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1982 Code, § 5-208)

9-209. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1982 Code, § 5-209)

9-210. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and 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 a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the town 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.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1982 Code, § 5-210)

9-211. 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. (1982 Code, § 5-211)

9-212. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. 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. (1982 Code, § 5-212)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
9-302. Prerequisites for a permit.
9-303. Denial of a permit.
9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the town recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1982 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer, or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1982 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1982 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1982 Code, § 5-304)

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Taxicab franchise and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1982 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the board of mayor and aldermen; and make a recommendation

¹Municipal code reference
Privilege taxes: title 5.

to either grant or refuse a franchise to the applicant. The board shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. (1982 Code, § 5-402)

9-403. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of fifty thousand dollars (\$50,000.00) for bodily injury or death to any one person, one hundred thousand dollars (\$100,000.00) for bodily injuries or death to more than one person which are sustained in the same accident, and ten thousand dollars (\$10,000.00) for property damage resulting from any one accident. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1982 Code, § 5-403)

9-404. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1982 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab within the municipality unless it shall conform to all safety and other requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1982 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1982 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the

requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1982 Code, § 5-407)

9-408. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the police department. (1982 Code, § 5-408)

9-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following:

(1) Is at least eighteen (18) years of age and holds a state special chauffeur's license.

(2) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(3) Is clean in dress and person and is not addicted to the use of drugs or intoxicating liquor.

(4) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.

(5) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.

(6) Is familiar with the state and local traffic laws. (1982 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1982 Code, § 5-410)

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1982 Code, § 5-411)

9-412. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to interfere unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1982 Code, § 5-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1982 Code, § 5-413)

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1982 Code, § 5-414)

9-415. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to blow the automobile horn unnecessarily; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1982 Code, § 5-415)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1982 Code, § 5-416)

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. Newbern cable television ordinance.

9-501. Newbern cable television ordinance. Cable television service shall be regulated by the "Newbern Cable Television Ordinance," and any amendments thereto.¹

¹The "Newbern Cable Television Ordinance," and any amendments thereto, are published as separate documents and are on file in the recorder's office.

CHAPTER 6

CONTRACTORS

SECTION

- 9-601. License required.
- 9-602. Application required.
- 9-603. Surety bond required.
- 9-604. Use of license by another.
- 9-605. Exemptions.

9-601. License required. Each person, firm, partnership or corporation engaged in the business of contracting or subcontracting for construction, re-construction, alteration, improvement or demolition of buildings must have a license and shall pay all applicable privilege taxes before being issued a license. Such license shall be issued for a twelve (12) month period. (1982 Code, § 5-601)

9-602. Application required. No license shall be issued except upon written and signed application containing a covenant agreeing to full compliance with all city building codes and ordinances as a condition to the granting of the license. (1982 Code, § 5-602)

9-603. Surety bond required. No application for a contractor's license shall be acted upon until a performance bond, executed by a surety company duly authorized to do business in this state, has been filed with the recorder, for the protection of the municipality and/or any aggrieved or damaged citizen. If natural gas installations or gas appliance installations are included in the license, the amount of surety bond shall be \$25,000.00. If gas and gas appliance installations are excluded, the amount of such bond shall be \$2,000.00. (1982 Code, § 5-603)

9-604. Use of license by another. It shall be a misdemeanor to permit anyone other than bona fide fulltime employees of the licensee to perform work under a contractor's license. (1982 Code, § 5-604)

9-605. Exemptions. Nothing in this chapter shall be construed as requiring an individual to procure a license to perform work upon property owned by him and done for his own use and occupancy. This exemption does not relieve, however, the requirement to obtain building permits and to fully comply with all codes. (1982 Code, § 5-605)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. 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. (1982 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within thirty (30) feet of any residence or place of business without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1982 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. (1982 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. (1982 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. (1982 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. (1982 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 board of mayor and aldermen.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (1982 Code, § 3-107)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this chapter, 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. (1982 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 to be securely restrained.

10-205. Noisy dogs prohibited.

10-206. Confinement of dogs suspected of being rabid.

10-207. Seizure and disposition of dogs.

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. (1982 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. (1982 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. (1982 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1982 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1982 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 health officer or chief of police may

¹State law reference

Tennessee Code Annotated, §§ 44-8-108, 68-8-108, and 68-8-109.

cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1982 Code, § 3-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the board of mayor and aldermen. 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 board of mayor and aldermen 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 two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag placed on its collar.

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 the health officer or any policeman.¹ (1982 Code, § 3-207)

¹State 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).

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
4. FIREARMS, WEAPONS AND MISSILES.
5. MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
6. MISCELLANEOUS.

CHAPTER 1

ALCOHOL²

SECTION

11-101. Drinking beer, etc., on streets, etc.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open container of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has an appropriate permit and/or license for on premise consumption. (1982 Code, § 10-229)

¹Municipal code references

Animal control: title 10.

Housing and utilities: title 12.

Traffic offenses: title 15.

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

²Municipal 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

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-201. 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. (1982 Code, § 10-202)

11-202. 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 other vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to 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 persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

(f) 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.

(g) 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.

(h) 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.

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

(a) Municipal vehicles. Any vehicle of the municipality while engaged upon necessary public business.

(b) Excavations or repairs. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the municipality, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day. (1982 Code, § 10-233)

CHAPTER 3

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-301. Escape from custody or confinement.

11-302. False emergency alarms.

11-303. Resisting or interfering with city personnel.

11-304. Coercing people not to work.

11-305. Impersonating a government officer or employee.

11-301. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the municipality to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1982 Code, § 10-209)

11-302. 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. (1982 Code, § 10-217)

11-303. Resisting or interfering with city personnel. It shall be unlawful for any person to knowingly resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (1982 Code, § 10-210)

11-304. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It expressly is not the purpose of this section to prohibit peaceful picketing. (1982 Code, § 10-230)

11-305. Impersonating a government officer or employee. No person other than an official police officer of the municipality 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 municipality. Furthermore no person shall deceitfully impersonate or represent that he is any government officer or employee. (1982 Code, § 10-211)

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. Throwing missiles.

11-402. Discharge of firearms.

11-401. Throwing missiles. It shall be unlawful for any person to throw maliciously 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. (1982 Code, § 10-214)

11-402. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the municipality. (1982 Code, § 10-212, modified)

CHAPTER 5

MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-501. Malicious mischief.

11-502. Interference with traffic.

11-501. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1982 Code, § 10-225)

11-502. 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. (1982 Code, § 10-232)

CHAPTER 6

MISCELLANEOUS

SECTION

11-601. Abandoned refrigerators, etc.

11-602. Caves, wells, cisterns, etc.

11-603. Posting notices, etc.

11-604. Curfew for minors.

11-605. Fortune telling, etc.

11-606. Wearing masks.

11-601. 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. (1982 Code, § 10-223)

11-602. 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. (1982 Code, § 10-231)

11-603. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1982 Code, § 10-227)

11-604. Curfew for minors. It shall be unlawful for any minor under the age of eighteen (18) years, to be abroad at night between 11:00 A.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1982 Code, § 10-224)

11-605. Fortune telling, etc. It shall be unlawful for any person to hold himself or herself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1982 Code, § 10-234)

11-606. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by the town recorder to wear a traditional holiday costume. (1982 Code, § 10-235)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. CODES ENFORCEMENT ORGANIZATION.
2. BUILDING CODE.
3. PLUMBING CODE.
4. ELECTRICAL CODE.
5. GAS CODE.
6. HOUSING CODE.
7. MECHANICAL CODE.
8. DANGEROUS BUILDINGS.
9. ONE AND TWO FAMILY DWELLING CODE.

CHAPTER 1

CODES ENFORCEMENT ORGANIZATION

SECTION

- 12-101. Department created.
- 12-102. Building official.
- 12-103. Duties.
- 12-104. Review board.
- 12-105. Responsibilities and authority.

12-101. Department created. In order to protect the safety and health of the inhabitants of the municipality and to coordinate the procedures and requirements of the various building and utility codes, there is hereby created a department of inspection. (1982 Code, § 4-101)

12-102. Building official. The board of mayor and aldermen shall employ a building official who shall be a person experienced in the fundamentals of construction, alteration and repair of buildings, and in the electrical, gas, and plumbing crafts. The building official shall be in charge of the department of inspections. (1982 Code, § 4-102)

12-103. Duties. The duties of the building official shall include, but not be limited to:

- (1) Administering and enforcing the provisions of the zoning, housing, building, electrical, gas and plumbing codes.
- (2) Issuing all necessary permits, collecting the proper fees, and making inspections to assure compliance.

(3) Keeping records of the activities of the department and making reports, from time to time, as the board of mayor and aldermen may determine.

(4) Employing deputy or assistant inspectors, who may be full time employees of the various other departments of the municipality, and while so employed such deputy inspectors shall have identical responsibilities and authority as is given to the building official.

(5) Performing such other duties as may be required by the board of mayor and aldermen. (1982 Code, § 4-103)

12-104. Review board. There is hereby established a review board consisting of five (5) members. The membership of such board shall consist of those members of the "board of zoning appeals." They shall serve without compensation, at the pleasure of the board of mayor and aldermen, with their terms of office coterminus with their appointments to the board of zoning appeals. (1982 Code, § 4-104)

12-105. Responsibilities and authority. The review board shall act as an appeal board from the decisions of the building official as detailed in the building code. The board shall meet in intervals as determined by the chairman upon proper notice to all and in compliance with the provisions of the applicable code or ordinance under review. (1982 Code, § 4-105)

CHAPTER 2

BUILDING CODE¹

SECTION

12-201. Building code adopted.

12-202. Modifications.

12-203. Available in recorder's office.

12-204. Violations.

12-201. Building 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, the Standard Building Code², 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 building code. (1972 Code, § 4-201, modified, as amended by Ord. #98-13, Nov. 1998)

12-202. Modifications. Whenever the building 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 of the municipality. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the board shall have appointed or designated to administer and enforce the provisions of the building code. The recommended schedule of permit fees set forth in Appendix "B" of the building code is amended so that the fees to be collected shall be exactly one-half of the sums therein recommended. Provided, however, that the minimum fee for an inspection shall be \$5.00. Section 114 of the building code is hereby deleted. (1982 Code, § 4-202, modified)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

12-203. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1982 Code, § 4-203, modified)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1982 Code, § 4-204)

CHAPTER 3

PLUMBING CODE¹

SECTION

- 12-301. Plumbing code adopted.
 12-302. Modifications.
 12-303. Available in recorder's office.
 12-304. Violations.

12-301. 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 municipality, when such plumbing is or is to be connected with the municipal water or sewerage system, the Standard Plumbing 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 plumbing code. (1982 Code, § 4-301, modified, as amended by Ord. #98-13, Nov. 1998)

12-302. Modifications. Wherever the 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 board of mayor and aldermen of this municipality.

Wherever "Town Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board to administer and enforce the provisions of the plumbing code. Section 107 of the plumbing code is hereby deleted. (1982 Code, § 4-302, modified)

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 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. (1982 Code, § 4-303, modified)

12-304. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1982 Code, § 4-304)

CHAPTER 4

ELECTRICAL CODE¹

SECTION

- 12-401. Electrical code adopted.
- 12-402. Available in recorder's office.
- 12-403. Permit required for doing electrical work.
- 12-404. Violations.
- 12-405. Enforcement.
- 12-406. Fees.

12-401. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,² 1993 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1982 Code, § 4-401, modified)

12-402. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1982 Code, § 4-402, modified)

12-403. Permit required for doing electrical work. No electrical work shall be done within this municipality until a permit therefor has been issued by the municipality. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1982 Code, § 4-403)

12-404. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such

¹Municipal code references

Fire protection, fireworks and explosives: title 7.

²Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1982 Code, § 4-404)

12-405. Enforcement. The electrical inspector shall be such person as the board of mayor and aldermen shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1982 Code, § 4-405)

12-406. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143 for electrical inspections by deputy inspectors of the state fire marshal. (1982 Code, § 4-406)

CHAPTER 5

GAS CODE¹

SECTION

- 12-501. Title and definitions.
- 12-502. Purpose and scope.
- 12-503. Use of existing piping and appliances.
- 12-504. Bond and license.
- 12-505. Gas inspector and assistants.
- 12-506. Powers and duties of inspector.
- 12-507. Permits.
- 12-508. Inspections.
- 12-509. Certificates.
- 12-510. Fees.
- 12-511. Violations and penalties.
- 12-512. Nonliability.

12-501. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the municipality and may be cited as such.

The following definitions are provided for the purpose of interpretation and administration of the gas code.

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

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

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

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

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers. (1982 Code, § 4-501)

12-502. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of

¹Municipal code reference

Gas system administration: title 19, chapter 2.

consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the Standard Gas Code,¹ 1997 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the town recorder for the use and inspection of the public. (1982 Code, § 4-502, modified, as amended by Ord. #98-13, Nov. 1998)

12-503. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1982 Code, § 4-503)

12-504. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the town recorder a good and sufficient bond in the penal sum of \$25,000, with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the town recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

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

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

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

conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1982 Code, § 4-504)

12-505. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the building official is hereby designated as the gas inspector. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen. (1982 Code, § 4-505)

12-506. Powers and duties of inspector. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

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

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1982 Code, § 4-506)

12-507. Permits. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the town recorder; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

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

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

extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (1982 Code, § 4-507)

12-508. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1982 Code, § 4-508)

12-509. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1982 Code, § 4-509)

12-510. Fees. (1) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspections) shall be \$1.50 for one to four outlets, inclusive, and \$0.50 for each outlet above four.

(2) The fees for inspecting conversion burners, floor furnaces, boilers, or central heating plants shall be \$1.50 for each unit.

(3) The fees for inspecting vented wall furnaces and water heaters shall be \$1.00 for each unit.

(4) If the inspector is called back, after correction of defects noted, an additional fee of \$1.00 shall be made for each such return inspection.

(5) Any and all fees shall be paid by the person to whom the permit is issued. (1982 Code, § 4-510)

12-511. Violations and penalties. Section 107 of the gas code is hereby deleted. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1982 Code, § 4-511)

12-512. Nonliability. This chapter shall not be construed as imposing upon the municipality any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the municipality, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector. (1982 Code, § 4-512)

CHAPTER 6

HOUSING CODE

SECTION

12-601. Housing code adopted.

12-602. Modifications.

12-603. Available in recorder's office.

12-604. Violations.

12-601. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,¹ 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 housing code. (1982 Code, § 4-601, modified, as amended by Ord. #98-13, Nov. 1998)

12-602. Modifications. Wherever the housing code refers to the "Building Official" it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the housing code. Wherever the "Department of Law" is referred to it shall mean the town attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the board of mayor and aldermen. Section 108 of the housing code is deleted. (1982 Code, § 4-602)

12-603. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the housing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1982 Code, § 4-603, modified)

12-604. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1982 Code, § 4-604)

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

CHAPTER 7

MECHANICAL CODE

SECTION

- 12-701. Mechanical code adopted.
12-702. Modifications.
12-703. Available in recorder's office.
12-704. Violations.

12-701. Mechanical code adopted. Pursuant to authority granted by §§ 6-54-501 through 6-54-506 of the Tennessee Code Annotated and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy-related systems, the Standard Mechanical Code, 1997 edition, as prepared and adopted by the Southern Building Code Congress, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (1982 Code, § 4-6A01, modified, as amended by Ord. #98-13, Nov. 1998)

12-702. Modifications. Section 107 of the mechanical code is hereby deleted. (1982 Code, § 4-6A02, modified)

12-703. Available in recorder's office. Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated, one (1) copy of the mechanical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1982 Code, § 4-6A03, modified)

12-704. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified. (1982 Code, § 4-6A04)

CHAPTER 8

DANGEROUS BUILDINGS

SECTION

- 12-801. Burned-out buildings to be removed.
- 12-802. Dilapidated buildings to be removed.
- 12-803. Violations.
- 12-804. Removal of offending buildings by city.
- 12-805. Right of owner to appeal.
- 12-806. Emergency cases.
- 12-807. Powers conferred are supplemental.

12-801. Burned-out buildings to be removed. It shall be unlawful for any person, firm or corporation to permit any burned-out building or structure which is unsafe for human occupancy to remain upon any real estate located within the corporate limits of the City of Newbern, Tennessee, for a period of more than sixty (60) days following the date of the damage to or partial destruction thereof by fire. (Ord. #99-4, May 1999)

12-802. Dilapidated buildings to be removed. It shall further be unlawful for any person, firm or corporation to permit the presence upon any real estate owned by them located within the corporate limits of the City of Newbern, Tennessee, of any building or structure which has been declared unsafe or unfit for human occupancy by the building inspector of the City of Newbern, Tennessee, because of structural defects therein caused by depreciation, dilapidation, windstorm or other casualty or intentional or negligent damage thereto. (Ord. #99-4, May 1999)

12-803. Violations. Any person, firm or corporation found guilty of violating any provision of this chapter shall be fined under the general penalty clause for this municipal code and each day of continued violation after the posting of a notice on such buildings or structures by the city building inspector and the mailing of such notice to the registered owner of the affected real estate as determined by the city's tax rolls via First Class U.S. Mail will constitute a separate offense. (Ord. #99-4, May 1999)

12-804. Removal of offending buildings by city. In addition to the penalties provided by § 12-803, the failure of any owner of real estate to demolish, remove, repair, or replace any building or structure declared unsafe for human occupancy by the city building inspector within thirty (30) days of the giving of the notice specified in § 12-803 above will serve as irrevocable appointment by the owner of such real estate of the city building inspector as his agent, with full authority to arrange for and accomplish the removal of such

building or structure from the real estate. In such event, the City of Newbern shall have a lien upon the real estate in question for the reasonable cost incurred by the city in the removal of such building or structure which shall be enforceable the same as liens for unpaid city taxes.

Notwithstanding the foregoing, any owner registered on the city's property tax rolls of any building or structure prohibited by this section shall be entitled to request the city's removal of such structure provided such owner shall first agree in writing to reimburse the city for the total of its costs incurred in the removal of such structure and to release and indemnify the city for all claims, damages and liability arising in connection with such removal. (Ord. #99-4, May 1999)

12-805. Right of owner to appeal. Any owner of real estate receiving the notice specified in § 12-803 above by either posting or mail shall be entitled to appeal the action of the city building official to the city's board of mayor and aldermen by the tender of written notice of such appeal within twenty (20) days of receipt of such notice. Such appeal shall be heard by the city board as soon as practicable following receipt of the notice of appeal. Pending the board's ruling on appeal, the city building official shall suspend all actions in connection with the removal of the affected building or structure. The ruling of the city board shall be final and binding upon the parties subject to their rights of appeal to the Courts of Tennessee under the general laws of the State. (Ord. #99-4, May 1999)

12-806. Emergency cases. Notwithstanding anything to the contrary stated hereinabove in this chapter, in cases where it reasonably appears that there is immediate danger to the life or safety of any person or the general public posed by any unsafe building or structure in the City of Newbern, the building inspector shall have the right to cause the immediate repair, vacation or demolition of such "dangerous buildings." The reasonable costs incurred by the city in effecting such repair, vacation or demolition shall be collected as provided for in § 12-804 above. (Ord. #99-4, May 1999)

12-807. Powers conferred are supplemental. Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the town to enforce any 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 any other laws. (Ord. #99-4, May 1999)

CHAPTER 9

ONE AND TWO FAMILY DWELLING CODE

SECTION

- 12-901. One and two family dwelling code adopted.
- 12-902. Modifications.
- 12-903. Available in recorder's office.
- 12-904. Violations.

12-901. One and two family dwelling code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the fabrication, erection, construction, enlargement, alterations, repair, location, and use of detached one and two family dwellings and their appurtenances and accessory structures, the One and Two Family Dwelling Code,¹ 1995 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 dwelling code. (Ord. #98-13, Nov. 1998)

12-902. Modifications. Whenever the words "Building Official" are used in the dwelling code, they shall refer to the person designated by the board of mayor and aldermen to enforce the dwelling code. Section R-106 of the dwelling code is hereby deleted. (Ord. #98-13, Nov. 1998)

12-903. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the dwelling code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #98-13, Nov. 1998)

12-904. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the dwelling code as herein adopted by reference and modified. (Ord. #98-13, Nov. 1998)

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

TITLE 13

PROPERTY MAINTENANCE

CHAPTER

1. REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS.

CHAPTER 1

REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS

SECTION

13-101. Accumulation of vegetation and debris.

13-102. Violations.

13-103. Removal of vegetation and debris.

13-104. Right of owner to appeal.

13-105. Powers conferred are supplemental.

13-101. Accumulation of vegetation and debris. It shall be unlawful for any person, firm or corporation to permit or maintain the presence upon any real estate owned by them located within the corporate limits of the City of Newbern the growth of trees, vines, grass, underbrush and/or the accumulation of debris, dead animals, trash, litter, garbage, stagnate water, or any combination of the preceding elements, so as to endanger the health, safety or welfare of any person or the general public or to encourage the infestation of rats and other harmful animals. (Ord. #99-5, May 1999)

13-102. Violations. Any person, firm or corporation found guilty of violating any provision of this chapter shall be fined under the general penalty clause for this municipal code and each day of continued violation after the mailing of notice by the public works director to the registered owner of the affected real estate as determined by the city's tax rolls via First Class U.S. Mail will constitute a separate offense. (Ord. #99-5, May 1999)

13-103. Removal of vegetation and debris. In addition to the penalties provided by § 13-102, the failure of any owner of real estate to remove any accumulation or vegetation and debris for which notice has been issued pursuant to § 13-102 within thirty (30) days of such issuance shall serve as an irrevocable appointment by the owner of such real estate of the public works director as his agent, with full authority to arrange for the removal of such vegetation and debris from the real estate. In such event, the City of Newbern shall have a lien upon the real estate in question for the reasonable cost incurred by the city in the removal of such vegetation and debris which shall be enforceable the same as liens for unpaid city taxes.

Notwithstanding the foregoing, any owner of the affected real estate registered on the city's property tax rolls shall be entitled to request the city's removal of such vegetation and debris provided such owner shall first agree in writing to reimburse the city for the total of its costs incurred in the removal of such vegetation and debris and to release and indemnify the city for all claims, damages and liability arising in connection with such removal. (Ord. #99-5, May 1999)

13-104. Right of owner to appeal. Any owner of real estate receiving the notice specified in § 13-102 above shall be entitled to appeal such action of the public works director to the city's board of mayor and aldermen by the tender of written notice of such appeal within twenty (20) days of receipt of such notice. Such appeal shall be heard by the city board as soon as practicable following receipt of the notice of appeal. Pending the board's ruling on appeal, the city building official shall suspend all actions in connection with the removal of the vegetation and debris. The ruling of the city board shall be final and binding upon the parties subject to their rights of appeal to the Courts of Tennessee under the general laws of the State. (Ord. #99-5, May 1999)

13-105. Powers conferred are supplemental. Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the town to enforce any 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 any other laws. (Ord. #99-5, May 1999)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

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 of these shall be the mayor and an alderman selected by the board of aldermen; the other seven (7) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the seven (7) members appointed by the mayor shall be three (3) years each. The terms of six (6) appointed members, whose terms have been established prior to the adoption of ordinance #2000-3, shall continue as they are currently in effect. The terms of initial appointment of the one (1) new member created through the passage of ordinance #2000-3 shall be four (4) years. The terms of the mayor and the member selected by the board of aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1982 Code, § 11-101, as amended by Ord. #2000-3, April 2000)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1982 Code, § 11-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1982 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 Town of Newbern shall be governed by the ordinance titled "Zoning Ordinance, Newbern, Tennessee," and any amendments thereto.¹

¹The zoning ordinance and any amendments thereto, are published as separate documents and are of record in the office of the town recorder.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic control signs, etc.
- 15-108. General requirements for traffic control signs, etc.
- 15-109. Unauthorized traffic control signs, etc.
- 15-110. Presumption with respect to traffic control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.

¹Municipal code reference

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

²State 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.

- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Bicycle riders, etc.
- 15-122. Basketball goals alongside or within public rights-of-way.
- 15-123. Impoundment of vehicles.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1982 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1982 Code, § 9-106)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1982 Code, § 9-109)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width a vehicle shall be driven upon the right half of the street except:

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

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

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

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1982 Code, § 9-110)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle

within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1982 Code, § 9-111)

15-106. 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. (1982 Code, § 9-112)

15-107. 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 municipality unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1982 Code, § 9-113)

15-108. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the municipality. This section shall not be construed as being mandatory but is merely directive. (1982 Code, § 9-114)

15-109. 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

¹Municipal code references

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

²This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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. (1982 Code, § 9-115)

15-110. Presumption with respect to traffic control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1982 Code, § 9-116)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1982 Code, § 9-117)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1982 Code, § 9-118)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1982 Code, § 9-120)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1982 Code, § 9-121)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1982 Code, § 9-122)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body

thereof the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (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. (1982 Code, § 9-123)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1982 Code, § 9-124)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1982 Code, § 9-125)

15-119. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1982 Code, § 9-126)

15-120. Damaging pavements. No person shall operate upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason

of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1982 Code, § 9-119)

15-121. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

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

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

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

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

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

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

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1982 Code, § 9-127)

15-122. Basketball goals alongside or within public rights-of-way. 1. No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street within the municipal limits of the City of Newbern so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-way or the presence of

persons within a public street playing basketball on such a goal shall be a violation of this section.

2. Any violation of this section shall be punishable by a fine of fifty dollars (\$50). (as added by Ord. #2004-8, Jan. 2005)

15-123. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked, so as to constitute an obstruction or hazard to normal traffic. 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 it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be equal to the fee charged by the wrecker service who tows the vehicle. The storage cost of the impounded vehicle shall be ___ dollars a day for each motor vehicle stored in the impoundment lot. Any part of a day shall count as a whole day. (as added by Ord. #15-04, Aug. 2014)

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. (1982 Code, § 9-102)

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

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

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 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.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1982 Code, § 9-103)

¹Municipal code reference

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

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1982 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1982 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1982 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1982 Code, § 9-202)

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

When the governing body has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1982 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1982 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1982 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1982 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1982 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1982 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1982 Code, § 9-305)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

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

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge of curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1982 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1982 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1982 Code, § 9-403)

¹Municipal code reference

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

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. (1982 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1982 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1982 Code, § 9-406)

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

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

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

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the town, 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 town at intersections which the town 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. (1982 Code, § 9-407)

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

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

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

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1982 Code, § 9-408)

15-509. At pedestrian-control signals. Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1982 Code, § 9-409)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1982 Code, § 9-410)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

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

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

Except as hereinafter provided, every vehicle parked upon a street within this town 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 municipality 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 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. (1982 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the municipality for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty (20) feet. (1982 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1982 Code, § 9-503)

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

- (1) On a sidewalk.
 - (2) In front of a public or private driveway.
 - (3) Within an intersection or within fifteen (15) feet thereof.
 - (4) Within fifteen (15) feet of a fire hydrant.
 - (5) Within a pedestrian crosswalk.
 - (6) Within fifty (50) feet of a railroad crossing.
 - (7) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
 - (8) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (9) Alongside any curb painted yellow or red by the municipality.
- (1982 Code, § 9-504)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the municipality as a loading and unloading zone. (1982 Code, § 9-505)

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the municipality, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be regulated by parking meters where the same have been installed by the municipality. The presumption shall be that all installed parking meters were lawfully installed by the municipality. (1982 Code, § 9-506)

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (1982 Code, § 9-507)

15-608. Unlawful parking in parking meter spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum

period of time which can be purchased at one time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (1982 Code, § 9-508)

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters. (1982 Code, § 9-509)

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1982 Code, § 9-510)

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1982 Code, § 9-511)

15-612. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1982 Code, § 9-512)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of "abandoned motor vehicles."
- 15-706. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1982 Code, § 9-601)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1982 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1982 Code, § 9-603, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested,

¹State law reference

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

or any vehicle which is illegally parked, abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. 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 it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and a storage costs of one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1982 Code, § 9-604)

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. (1982 Code, § 9-605)

15-706. 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 ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of one dollar (\$1.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued, his fine shall be three dollars (\$3.00).

(b) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days, his civil penalty shall be five dollars (\$5.00).

(c) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of one hundred dollars (\$100.00).

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

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. (1982 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. (1982 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 his property any tree, shrub, sign, or other obstruction which prevents persons

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1982 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 (1982 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 or above any public street or alley except when expressly authorized by the board of mayor and aldermen. (1982 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. (1982 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. (1982 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. (1982 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. (1982 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be

¹Municipal code reference
Building code: title 12, chapter 1.

unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1982 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. It shall also 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. (1982 Code, § 12-111, modified)

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 inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1982 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. (1982 Code, § 12-113)

CHAPTER 2

EXCAVATIONS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fees.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any 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. (1982 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 agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of Town of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1982 Code, § 12-202)

16-203. Fees. The fee for such permits shall be as determined by the board of mayor and aldermen. (1982 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 twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the municipality of relaying the surface of the ground or pavement, and of making the refill if this is done by the municipality 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 municipality if the applicant fails to make proper restoration. (1982 Code, § 12-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a safe and convenient temporary walkway shall be provided for the use of pedestrians needing to use such sidewalk. (1982 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 municipality shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the municipality but shall be paid for promptly upon the completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the municipality will do the work and charge the expense of doing the same to such person, firm, corporation,

association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, 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. (1982 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. (1982 Code, § 12-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until refill is made ready for the pavement to be put on by the municipality if the municipality restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted. (1982 Code, § 12-208)

16-209. Supervision. From time to time all excavations and tunnels being made in or under any public street, alley, or other public place in the municipality shall be inspected in order to assure compliance with this chapter. Notice shall be given the recorder at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1982 Code, § 12-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the building official or recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1982 Code, § 12-210)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Premises to be kept clean.
- 17-102. Definitions.
- 17-103. Storage of refuse.
- 17-104. Confiscation of unsatisfactory storage containers.
- 17-105. Other forms of refuse.
- 17-106. Collection of garbage and refuse.
- 17-107. Fees for collection and disposal of garbage and refuse.
- 17-108. Disposal of garbage and refuse.
- 17-109. Dumping in streams, sewers, and drains prohibited.
- 17-110. Burning regulated.
- 17-111. Violations.

17-101. Premises to be kept clean. All persons, firms, and corporations within the corporate limits of the Town of Newbern, Tennessee, are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, offal, filth, garbage, and trash. Such persons, firms, and corporations are required to store such refuse in sanitary containers of the type described in and required by this chapter between collection intervals and to dispose of such materials in the manner prescribed in this chapter so as not to cause a nuisance to the public health and welfare. (1982 Code, § 8-201)

17-102. Definitions. (1) "Refuse." The term "refuse," as hereinafter referred to in this chapter, shall include garbage, rubbish, ashes, and all other putrescible and non-putrescible, combustible and noncombustible materials originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling and sale of produce and other similar unwanted materials, but shall not include sewage, body wastes, or recognizable industrial by-products from all residences and establishments, public and private.

¹Municipal code reference

Property maintenance regulations: title 13.

(2) "Garbage." The term "garbage" shall include all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products from all public and private residences and establishments.

(3) "Rubbish." The term "rubbish" shall include all non-putrescible waste materials except ashes from all public and private residences and establishments.

(4) "Ashes." The term "ashes" shall include the waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.

(5) "Collector." The term "collector" shall mean any person, firm, corporation, or political subdivision, that collects, transports, or disposes of any refuse within the corporate limits of Newbern, Tennessee.

(6) "Health officer." The term "health officer" shall mean the health authority of Newbern, Tennessee, or his authorized representative. (1982 Code, § 8-202)

17-103. Storage of refuse. Each owner, occupant, tenant, sub-tenant, lessee or others, using or occupying any building, house, structure, or grounds within the corporate limits of the Town of Newbern, Tennessee, where refuse materials or substances as defined in this chapter accumulate or are likely to accumulate, shall provide an adequate number of suitable containers of a type approved by the health officer, for the storage of such refuse. Such containers shall be constructed of metal, shall be strong and durable, not readily corrodible, rodent and insect-proof, of a capacity not exceeding 32 gallons (and not less than 20 gallons), except that the maximum capacity shall not apply in cases where the town is equipped to handle containers of similar construction mechanically. Such containers shall be equipped with handles to facilitate emptying and shall be equipped with tight fitting lids or covers, constructed of the same material and of such design as to preclude the free access of flies and other insects and to prevent the container from collecting water during rains. The lid or cover shall be kept in place at all times except when refuse is being deposited therein or removed therefrom by an official collector. Such storage containers should be placed in such convenient and accessible location for trucking as may be designated by the official refuse collecting agency.

Wet garbage or refuse must be drained of all liquids and wrapped in paper or other equivalent material prior to being placed in the storage receptacle. The containers shall be maintained in a clean and sanitary manner and shall be thoroughly cleaned by washing or other methods as often as necessary to prevent the breeding of flies and the occurrence of offensive odors. (1982 Code, § 8-203)

17-104. Confiscation of unsatisfactory storage containers. The official refuse collecting agency of the town is hereby authorized to confiscate or to

remove unsatisfactory storage containers from the premises of residences and establishments, public and private, when it finds that such containers are not suitable for the healthful and sanitary storage of refuse substances. Such unsatisfactory containers shall be removed and disposed of at a place and in a manner designated by the official collecting agency only after the owners of such containers have been notified of such impending action. (1982 Code, § 8-204)

17-105. Other forms of refuse. In no case will it be the responsibility of the refuse collecting agency of the town to shovel or pick up from the ground any accumulations of refuse, including leaves, lawn clippings, brush, and packing material. All such materials are to be placed in containers of the type described in § 17-103 or cut and baled, tied, bundled, stacked, or packed so as not to exceed 36 inches in length and 75 pounds in weight. (1982 Code, § 8-205)

17-106. Collection of garbage and refuse. (1) Collection interval. All refuse (including garbage and rubbish) as heretofore defined shall be collected sufficiently frequently to prevent the occurrence of nuisances and public health problems. Pickup shall be twice a week from June through September and once a week in October through May. The collection of refuse within the Town of Newbern, Tennessee, shall be under the jurisdiction of the county health department.

(2) Permits. No person, firm, or corporation shall engage in the business of collecting refuse or removing the contents of any refuse container for any purpose whatsoever, or attempt to dispose of his own refuse, who does not possess a permit to do so from the recorder. Such permits may be issued only after the applicant's capability of complying with the requirements of this code has been fully determined. Such permits may be suspended or revoked upon the violation of any of the terms of this chapter.

(3) Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials and easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and public thoroughfares. Provisions shall be made to prevent the scattering of refuse over the streets and thoroughfares by effective coverings or closed truck beds. (1982 Code, § 8-206)

17-107. Fees for collection and disposal of garbage and refuse. Fees shall be paid by every owner, occupant, tenant, sub-tenant, person, firm, or corporation within the corporate limits of the Town of Newbern, Tennessee, for the collection and disposal of refuse and garbage, in accordance with such fee schedules as may from time to time be prescribed by the board of mayor and aldermen.

All disputes regarding the proper monthly fee for garbage collection and disposal shall be determined by the board of mayor and aldermen.

The fees shall be paid and collected monthly through the utility department of the Town of Newbern, being billed as a part of the utility bill of each customer of the town utility department, or separately for any recipient of such service who is not a customer of the utility department.

Any user who feels aggrieved by the fee or service charge levied, may submit his grievance to the board of mayor and aldermen for consideration. If the board finds that an adjustment is proper, it will then be made, and the customer, collector, and billing agency notified, but any user submitting such a request for adjustment shall continue to pay the regular rate until notified of an adjustment approved by the board. (1982 Code, § 8-207)

17-108. Disposal of garbage and refuse. The disposal of refuse in any quantity by any individual, householder, establishment, firm, or corporation in any place, public or private, other than the site or sites designated by the constituted authority of the Town of Newbern, is expressly prohibited. All disposal of refuse and garbage shall be by methods approved by the department of health and environment, and provided that such methods shall include the maximum practical rodent, insect, and nuisance control at the place of disposal, and provided that no garbage shall be fed to swine unless said garbage has first been heated to at least 212°F., and held there at least 30 minutes in apparatus and by methods approved by the Tennessee Department of Agriculture. Provided further that animal offal and carcasses of dead animals shall be buried or cremated under circumstances approved by the health officer, or shall be rendered at 40 psi. steam pressure or higher, or similarly heated by equivalent cooking. A special town permit will be required for collection of garbage for swine. (1982 Code, § 8-208)

17-109. Dumping in streams, sewers, and drains prohibited. It shall be unlawful for any person, firm, or corporation to dump refuse in any form into any stream, ditch, storm sewer, sanitary sewer, or other drain within the Town of Newbern. (1982 Code, § 8-209)

17-110. Burning regulated. It shall be unlawful for any person, firm, or corporation to burn or attempt to burn refuse on private or public property within the corporate limits of the Town of Newbern without first securing the approval of the appropriate town department having jurisdiction. (1982 Code, § 8-210)

17-111. Violations. (1) Any person who shall violate any of the provisions of this chapter, or who shall fail or refuse to obey any notice issued by the department of health and environment or superintendent of the refuse collection department, with reference to the storage, accumulation, or disposal of refuse, shall be subject to a penalty as provided for in the adopting ordinance for this municipal code.

(2) In addition, any person, firm, or corporation receiving the benefit of the services provided by this chapter who fails to pay the garbage collection and disposal fees provided above within nine (9) days after the mailing of monthly billing for same, shall be liable for and pay a penalty of ten per cent (10%) of the amount of such fee, and the Town of Newbern shall have the right to all available remedies for the collection of such fees and penalties provided by law. (1982 Code, § 8-211)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. SEWAGE AND HUMAN EXCRETA DISPOSAL.
2. WATER AND SEWERS GENERALLY.
3. WATER AND SEWER EXTENSIONS.
4. ENFORCEMENT RESPONSE PLAN.
5. SEWER USE ORDINANCE.
6. USER CHARGE SYSTEM.
7. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
8. FIRE AND FLUSHING HYDRANTS.

CHAPTER 1

SEWAGE AND HUMAN EXCRETA DISPOSAL²

SECTION

- 18-101. Definitions.
- 18-102. Places required to have sanitary disposal methods.
- 18-103. When a connection to the public sewer is required.
- 18-104. When a septic tank shall be used.
- 18-105. Registration and records of septic tank cleaners, etc.
- 18-106. Use of pit privy or other method of disposal.
- 18-107. Approval and permit required for septic tanks, privies, etc.
- 18-108. Owner to provide disposal facilities.
- 18-109. Occupant to maintain disposal facilities.
- 18-110. Only specified methods of disposal to be used.
- 18-111. Discharge into watercourses restricted.
- 18-112. Pollution of ground water prohibited.
- 18-113. Enforcement of chapter.
- 18-114. Carnivals, circuses, etc.
- 18-115. Violations.

¹Municipal code references

Building, utility and housing codes: title 12.
Refuse disposal: title 17.

²Municipal code reference

Plumbing code: title 12, chapter 2.

18-101. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excrete." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health and Environment as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1982 Code, § 8-301)

18-102. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excrete. (1982 Code, § 8-302)

18-103. When a connection to the public sewer is required. (1) Except as provided in subsection (2) below, wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage shall be employed except as provided in subsection (2) below.

(2) During the period commencing July 1, 1992, and ending on the date of termination of the Agreed Order entered in Case No. 90-3154, ADD DOC. NO. 17:30-D-90-1268A before the Tennessee Water Quality Control Board of the State of Tennessee, Department of Conservation, Division of Water Pollution Control, any owner of real property located within the Newbern town limits, which property would otherwise qualify under all applicable laws, rules and regulations for sewage disposal by septic tank and field line system, shall be entitled to construct, install and place in operation a lawfully constructed septic tank and field line system upon said property for use in the disposal of wastewater generated from improvements upon the property. Notwithstanding anything to the contrary stated hereinabove, the right and entitlement of any such owner to construct, install and place in operation any such septic tank and field line system shall cease and terminate, forever, as of the expiration of the period described above; and, thereafter, no use of any such septic tank and field line system accessible to a public sewer. (1982 Code, § 8-303, as amended by Ord. #92-3, June 1992)

18-104. When a septic tank shall be used. Wherever water-carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1982 Code, § 8-304)

18-105. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1982 Code, § 8-305)

18-106. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-102 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1982 Code, § 8-306)

18-107. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1982 Code, § 8-307)

18-108. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-102, or the agent of the owner to provide such facilities. (1982 Code, § 8-308)

18-109. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1982 Code, § 8-309)

18-110. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1982 Code, § 8-310)

18-111. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1982 Code, § 8-311)

18-112. Pollution of ground water prohibited. No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1982 Code, § 8-312)

18-113. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health

officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However such person shall be allowed the number of days herein provided within which to make permanent correction. (1982 Code, § 8-313)

18-114. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1982 Code, § 8-314)

18-115. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1982 Code, § 8-315)

CHAPTER 2

WATER AND SEWERS GENERALLY¹

SECTION

- 18-201. Application for service.
- 18-202. Deposit required.
- 18-203. Point of delivery.
- 18-204. Customer's plumbing system--standards.
- 18-205. Right of access.
- 18-206. Inspections.
- 18-207. Supply and resale of water.
- 18-208. Unauthorized use of water supply.
- 18-209. Illegal use of sewer.
- 18-210. Customer's responsibility.
- 18-211. Sewer service charges.
- 18-212. Interruption of service.
- 18-213. Cut-off failures.
- 18-214. Meter tests.
- 18-215. Billing.
- 18-216. Discontinuance of service.
- 18-217. Reconnection charge.
- 18-218. Termination of contract by customer.
- 18-219. Temporary service.
- 18-220. Rates.
- 18-221. Fluoridation of water.
- 18-222. Water service charge.

18-201. Application for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. (1982 Code, § 13-101)

18-202. Deposit required. A deposit must accompany each application for service. The amount of such deposit shall be as set out in the current "rate schedule." Upon termination of service, the deposit will be applied against any unpaid bill or account due the municipality and its departments. Any balance remaining shall be refunded. (1982 Code, § 13-102)

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

18-203. Point of delivery. The point of delivery for water service shall be the outlet of the water meter either located on or off the customer's premises as designated and required by the municipality. All facilities beyond said point of delivery shall be owned and maintained by the customer. The municipality is not responsible for water leaks beyond the point of delivery. The municipality shall charge a \$10.00 fee for service calls made to a premise when the problem is not the fault of the municipality. (1982 Code, § 13-103)

18-204. Customer's plumbing system--standards. The customer's water and sewer system and attachments thereto shall conform to the current municipal plumbing code and to all municipal ordinances pertinent to same. (1982 Code, § 13-104)

18-205. Right of access. Municipal employees shall have access to customer's premises at all reasonable times for the purpose of reading meters, testing, repairing, removing or exchanging any or all equipment of municipality and for inspecting customer's premises in order to assure compliance with these rules and regulations. (1982 Code, § 13-105)

18-206. Inspections. The municipality shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later date. The municipality reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by the municipal ordinances regulating building or plumbing. (1982 Code, § 13-106)

18-207. Supply and resale of water. All water shall be supplied within the municipality exclusively by the municipality and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof. (1982 Code, § 13-107)

18-208. Unauthorized use of water supply. No person shall turn on or turn off any of the municipality's stop cocks, hydrants, spigots, fireplugs, or valves without permission or authority from the municipality. (1982 Code, § 13-108)

18-209. Illegal use of sewer. The customer shall not allow sewerage from other premises to be carried through his sewer service lines. No roof drains or other surface drains shall be connected to the sewer service lines. (1982 Code, § 13-109)

18-210. Customer's responsibility. All meters, service connections, and other equipment furnished by the municipality shall remain the property of the municipality. Each customer shall provide space for and exercise proper care to protect the property of municipality on his premises. Any damage to the

municipality's property arising from customer's intentional actions or neglect shall be the responsibility of and paid for by the customer. Municipality shall repair said damage or replace the damaged equipment and add the cost of same to customer's monthly bill rendered pursuant to § 18-215. Said cost shall be paid and collected together with all other monthly service fees pursuant to § 18-215. Municipality shall be responsible for connections made to the public sanitary sewer system and service lines from such point of connection to the outer side of the street curb or, if no curb exists, to the outer edge of the street pavement or surfacing. The customer shall install and maintain at his own expense all installations beyond this point. Customer shall also be responsible for any stoppage or other damage done to system by shrubbery, trees, or roots of same, owned by customer. (1982 Code, § 13-110, as amended by Ord. #90-__, May 1990)

18-211. Sewer service charges. Sewer service charges shall be collected from the person billed for water service to any premises with an accessible sanitary sewer. The sewer charge shall be as follows:

Class 22 - Residential and Class 35 - Small Commercial

<u>Gallons Per Month</u>	<u>Per 100 Gallons</u>
First 2,000 @	\$ 3.75 Minimum
Next 3,000 @ .001134	3.40
Next 5,000 @ .000908	4.54
Next 10,000 @ .000605	6.05
Over 20,000 @ .000378	7.56

Class 01 - Industrial

<u>Gallons Per Month</u>	<u>Per 100 Gallons</u>
First 2,000 @	\$ 7.04 Minimum
Next 3,000 @ .002128	6.38
Next 5,000 @ .001701	8.51
Next 10,000 @ .001135	11.35
Over 20,000 @ .000709	14.18

The sewer service charge shall be added to and combined with the water service charge, water service may be discontinued for non-payment of the combined bill. (1982 Code, § 13-111)

18-212. Interruption of service. The municipality will endeavor to furnish continuous water service, but does not guarantee to the customer any

fixed pressure or continuous service. The municipality can not be liable for any damages for any interruption of service, or for any damage caused by low pressure, high pressure, or fluctuations in pressure in the municipality's water mains. (1982 Code, § 13-112)

18-213. Cut-off failures. The customer must rely exclusively on privately owned cut-offs and not upon the municipality's cut-off. It is the responsibility of the customer to see that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1982 Code, § 13-113)

18-214. Meter tests. Municipality will make periodical tests and inspections of its meters in order to maintain a high standard of accuracy. Municipality will make additional tests of its meters at the request of customer. If the meter is found to be correct within the following variance the customer will pay the proper meter testing charge:

<u>Meter Size</u>	<u>Variance</u>	<u>Testing Charge</u>
up to 2"	2%	\$ 5.00
3" or 4"	4%	10.00
6" or over	5%	20.00

(1982 Code, § 13-114)

18-215. Billing. Bills will be rendered monthly and shall be paid on or before the discount date in order to obtain the net rates, otherwise gross rates shall apply. Failure to receive a bill will not release a customer from payment obligation. A customer's failure to pay within five (5) days after discount date shall be deemed a request by customer that service be discontinued. The municipality shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment is made at any time on the day that service is actually discontinued. (1982 Code, § 13-115)

18-216. Discontinuance of service. The board of mayor and aldermen shall have the right to discontinue service for violation of any of its rules and regulations or of customer's contract for service.

Discontinuance of service for any cause shall not release customer from liability for service already received. (1982 Code, § 13-116)

18-217. Reconnection charge. Whenever service has been discontinued as provided above, or a trip is made for the purpose of discontinuing service, a charge of not less than one dollar (\$1.00) shall be collected before service is restored. (1982 Code, § 13-117)

18-218. Termination of contract by customer. Three (3) days written notice shall be given by customers wishing to discontinue service. Such notice prior to expiration of contract term will not relieve customer of any minimum or guaranteed payment under any contract or rate schedule. (1982 Code, § 13-118)

18-219. Temporary service. Customers requiring temporary service shall pay all costs of connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1982 Code, § 13-119)

18-220. Rates. The rates to be charged for water and sewer services shall be established by the board of mayor and aldermen, from time to time, by ordinance. (1982 Code, § 13-120)

18-221. Fluoridation of water. The water department of the Town of Newbern, Tennessee, is hereby authorized and instructed to make plans for the fluoridation of the water supply of the Town of Newbern, Tennessee, to submit such plans to the Department of Health and Environment of the State of Tennessee for approval, and upon approval to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be borne by the revenues of the water department of the Town of Newbern, Tennessee. (1982 Code, § 13-121)

18-222. Water service charge. Customers shall pay a service charge for water supplied to a premises by the municipality. The water service charge shall be as follows:

<u>METER SIZE</u>	<u>WATER RATE</u>
3/4" Meter	Base Charge \$6.60 Water Charge \$2.65 per 1000 Gallons
1" Meter	Base Charge \$9.80 Water Charge \$2.65 per 1000 Gallons
2" Meter	Base Charge \$12.10 Water Charge \$2.65 per 1000 Gallons
4" Meter	Base Charge \$16.50 Water Charge \$2.65 per 1000 Gallons
8" Meter	Base Charge \$30.80 Water Charge \$2.65 per 1000 Gallons

Change 9, January 18, 2005

18-11

(1982 Code, § 13-122, as replaced by Ord. #96-3, Aug. 1996, and amended by Ord. #2000-18, Jan. 2001; Ord. #2003-8, Sept. 2003; and Ord. #2004-3, July 2004)

CHAPTER 3

WATER AND SEWER EXTENSIONS¹

SECTION

- 18-301. Initial service.
- 18-302. Tapping fee required.
- 18-303. Installment payments.
- 18-304. Extension provided.
- 18-305. Additional main extensions.
- 18-306. Calculation points.
- 18-307. Credits allowed.
- 18-308. Group developments.
- 18-309. Separate projects.
- 18-310. Approval required.
- 18-311. Guarantee of payments.
- 18-312. Service refused.
- 18-313. Main locations.
- 18-314. Commencement of construction.
- 18-315. Municipal extensions.

18-301. Initial service. Persons desiring water and/or sewer service to premises not previously served by the municipality's systems, shall make written application for each service separately. Such application shall state ownership and location of property to be served, location of existing mains from which service is desired, and approved public street abutting the property to be benefitted. Applicant may be required to furnish such other information as would be essential in consideration of such service requests. (1982 Code, § 13-201)

18-302. Tapping fee required. At the time of application for new service, the prospective customer shall pay a tapping fee according to the following schedule:

For sewer service single family dwelling:

Line Side	\$200.00
Gravel Street	250.00
Asphalt Street	300.00
Concrete Street	350.00

For sewer service multi-family dwellings:

First tap same as above.
Next three taps \$75.00
Over five taps \$50.00

For sewer service commercial:

4" or 6" line \$400.00 each tap
Additional units added to tap \$100.00 each

For water service up to and not including 1" tap

Line Side \$350.00
Road Bore 500.00

For water service 1" tap additional \$100.00

For water service 2" tap or larger actual costs of materials used.

If larger taps are required the fee shall be increased by the amount of additional cost of materials required.

In the event service is refused for any reason, liability of the municipality shall be limited to return of any fee deposited by the applicant. (1982 Code, § 13-202, as amended by Ord. #94-5, July 1994, and Ord. #2002-8, Aug. 2002)

18-303. Installment payments. Charges for new service, at the discretion of the municipality if requested by the customer, will be levied in five equal parts, due and payable as follows: One-fifth cash at the time of application and one-fifth due and payable with each of the four next succeeding utility billings. Failure to pay any installment when due shall cancel the privilege for partial payments and the unpaid balance shall be due immediately. Water service shall be discontinued and not restored at such location until the initial tappage fee has been fully paid, notwithstanding the sale or transfer of title to such property. (1982 Code, § 13-203)

18-304. Extension provided. Upon approval of any application, the municipality shall, at its own expense, lay a service line from the system's main to customer's property line and in the case of water service, shall provide and install a meter. Extensions to the municipality's mains for a distance not exceeding 100 feet shall be made, if necessary. (1982 Code, § 13-204)

18-305. Additional main extensions. If an extension of the system's mains is required beyond the 100 foot allowance, the municipality will lay such

additional extensions, at its own expense, upon the customer obligating himself to pay a line amortization monthly fee for a period not exceeding ten (10) years. Such amortization fee shall be as follows:

For water service, each 50 feet or fraction - \$2.00

For sewer service, each 50 feet or fraction - -2.50

(1982 Code, § 13-205)

18-306. Calculation points. In calculating the footage of extensions made, all measurements will be made from a point in an approved public street, opposite the center of the lot frontage being served, measured along such public street to the closest end of an existing system main. (1982 Code, § 13-206)

18-307. Credits allowed. If during the amortization period, the municipality connects a permanent customer to that section of the main extension upon which amortization is being paid, a reduction of \$2.00 for water and \$2.50 for sewer contracts shall be made the following month in the amortization payments. Whenever the monthly payment amount has been reduced to 25% of the original monthly payment amount, the balance of the contract shall be cancelled by the municipality and no further payments need be made. (1982 Code, § 13-207)

18-308. Group developments. Whenever system extensions requested to serve subdivisions or areas only partially developed, the same policy of amortization payments may be applied, except no initial 100 foot extension allowance shall be made in calculating the main extension unless a permanent service-using customer is connected to the extension at time construction is completed. (1982 Code, § 13-208)

18-309. Separate projects. Each extension made under a separate contract shall be accounted for separately upon system's records. Further extensions of the mains and connecting of additional customers shall not affect the contract. However, in the discretion of the municipality, two or more continuous main extensions made to one person, although made at different times, may be grouped into a single contract. (1982 Code, § 13-209)

18-310. Approval required. Neither the board of mayor and aldermen, planning commission, or any other agency or person shall approve a subdivision plat for development by permitting water or sanitary systems other than those to be connected with the municipal system, unless application for such service has been made to the municipality and has been refused. (1982 Code, § 13-210)

18-311. Guarantee of payments. All service applications requiring amortization payments shall be reviewed by the board of mayor and aldermen

before approval. Security to assure performance of the contract may be required in the form of endorsement, bond, or a lien upon the property benefitted. (1982 Code, § 13-211)

18-312. Service refused. If it is found that such water or sewer service would not be feasible due to excessive costs or any other unusual factor, the municipality shall refuse such service application and its liability shall be limited to the return of any deposit previously made. (1982 Code, § 13-212)

18-313. Main locations. All water and sewer mains shall be installed in accepted public street rights-of-way. If it becomes necessary to cross private property, no lines shall be laid except within utility strips upon which legal easements or deeds have been properly executed and delivered. (1982 Code, § 13-213)

18-314. Commencement of construction. No construction shall be undertaken until all land preparation, fills, and excavations shall have been completed. (1982 Code, § 13-214)

18-315. Municipal extensions. Nothing in these sections shall prevent the municipality from making any extensions deemed necessary or desirable at its own expense, either to water or sewer systems. (1982 Code, § 13-215)

CHAPTER 4

ENFORCEMENT RESPONSE PLAN

SECTION

18-401. Introduction.

18-402. Provisions for enforcement in previous sewer use ordinance.

18-403. Provisions for enforcement in revised ordinance.

18-404. Enforcement response guide.

18-405. Enforcement responses.

18-401. Introduction. (1) The recently promulgated Domestic Sewage Study (DSS) amendments to the General Pretreatment Regulations (Federal Register, July 24, 1990) require all Publicly Owned Treatment Works (POTW) with approved pretreatment programs to develop and implement an enforcement response plan. The regulations require that the plan shall contain detailed procedures of how the POTW will respond to instances of industrial user noncompliance. At a minimum, the plan shall:

(a) Describe how the POTW will investigate instances of noncompliance;

(b) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;

(c) Identify by title the official(s) responsible for implementing each type of enforcement response;

(d) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards as provided in 40 CFR 403.8(f)(1) and (2).

When properly developed and implemented, the enforcement response plan will provide the POTW with an efficient and objective means of responding to instances of industrial user noncompliance.

The following document details the steps to be taken by the City of Newbern to achieve compliance with all state and federal regulations and amendments. The primary document utilized in preparing this plan was the EPA publication "Guidelines for Developing Control Authority Enforcement Response Plans". Federal and State regulations (40 CFR Part 403 and Tennessee Code Annotated 69-3-101 through 129, respectively) were also used as reference documents.

(2) The available personnel along with the minimum responsibilities that will be required of each title needed to implement the enforcement response plan will consist of the following:

(a) Field inspector - Working closely with the pretreatment coordinator, will be responsible for coordination and collection of wastewater samples from both the industrial users and the wastewater

treatment plant (WWTP). Will assist in performing scheduled and unscheduled sampling and field inspection of IUs. Assists in compliance tracking and determination of level of noncompliance. Can make phone calls and/or issue notice of violation (NOV) in minor instances of noncompliance.

(b) Pretreatment coordinator - Person primarily responsible for day to day monitoring of compliance status of IUs. Will schedule sampling events for IUs and at WWTP. Will implement demand monitoring when deemed necessary. Primary responsibility for tracking IU information and for determining necessary levels of enforcement. Principle liaison between city and IUs. Will keep superintendent and apprised of all developments regarding IU compliance status and will be the primary source of reference for higher levels of enforcement. Issues NOV's for minor and moderate levels of noncompliance. Will issue administrative orders (AO) and/or fines after consultation with superintendent.

(c) Superintendent - At the request of the pretreatment coordinator, will institute higher degrees of enforcement (i.e., termination, criminal prosecution). Will inform upper level city officials of the background and need for such actions. Has authority to issue cease and desist orders and/or emergency termination of service when necessary. Has final authority on all levels of enforcement proceedings.

(d) Mayor/board of aldermen - Will be consulted on all enforcement proceedings involving civil penalties/actions, criminal investigation, show cause orders, and non-emergency termination of service.

(e) Attorney - Will assist POTW personnel and provide guidance on legality of chosen enforcement procedures against IUs. Reviews sewer use ordinance (SUO) other pertinent documents to assure conformance to state and federal law. Represents city in any court action resulting from enforcement actions.

(f) Consultant - At the request of the POTW, will provide guidance in all aspects of compliance tracking and monitoring of IUs. Will provide technical expertise when necessary to assure that enforcement actions follow generally accepted protocol. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-402. Provisions for enforcement in previous sewer use ordinance. The previous sewer use ordinance 88-2 for the City of Newbern was adopted on first reading on March 1, 1988. Several sections of the SUO apply either directly or indirectly to conditions which can lead to enforcement proceedings. Section 8-800 of the SUO refers directly to enforcement actions.

Rather than reiterate whole or partial sections of the previous SUO as part of the enforcement response plan, the City of Newbern Sewer Use

Ordinance has been deleted and a revised and updated ordinance was submitted to the State of Tennessee in November 1990. A copy of Section 8-800 of the previous SUO dealing with specific enforcement actions and/or conditions which could possibly lead to enforcement proceedings has been included in Appendix 1 for reference.¹ The preparation of the new SUO will aid in expediting enforcement and will incorporate the most recent amendments to general pretreatment regulations and will be detailed in the next section. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-403. Provisions for enforcement in revised ordinance. The previous sewer use ordinance for the City of Newbern was found to be insufficient in order to provide the city with the legal basis for effectively enforcing its pretreatment program. In addition, the SUO did not adequately address the changes and amendments to the general pretreatment requirements announced in the July 24, 1990 Federal Register (Domestic Sewage Study Survey).

It was therefore decided to delete the previous SUO and develop a new one. This ordinance was submitted to the city attorney in October 1990 and the draft was approved by the mayor and board of aldermen as required in the city charter. The draft ordinance was submitted to the State of Tennessee Department of Environment and Conservation (TDEC) along with the enforcement response plan in November 1990.

In a letter dated September 27, 1991, the City of Newbern received a program review of the Phase I, II, and ERP submittals from the TDEC. The recommendations in this letter have been addressed and the necessary changes made. The superintendent at the time chose to proceed with implementation of the pretreatment program and the adoption of the sewer use ordinance as submitted to the state. Industrial user permits were issued in February 1991 and the program has been in full operation since.

A complete and updated copy of the new SUO has been included as Appendix 2 to revision 2² of the Enforcement Response Plan. Items dealing specifically with enforcement actions against violators can be found in section 18-510. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-404. Enforcement response guide. The City of Newbern pretreatment program has received tentative approval by the State of Tennessee. However, the city is responsible for the enforcement of all federal, state, and local wastewater discharge regulations, and has chosen to implement the program prior to receiving approval from the state. A semi-annual pretreatment report

¹These provisions are on file in the office of the recorder.

²The sewer use ordinance has been codified as chapter 5, to title 18, of this municipal code.

has already been submitted to the State covering the previous semi-annual period (April 1 thru September 30). Any modifications or changes suggested by the state are currently being incorporated into the program pending final approval.

The primary purpose of the enforcement response guide is to assure fair, consistent, and impartial enforcement. This section describes each type of violation and indicates a range of appropriate enforcement options.

For the purposes of this guide, insignificant non-compliance is considered a relatively minor or infrequent violation of pretreatment standards or requirements. These will usually be responded to with a notice of violation (NOV). Examples of violations which may be considered insignificant non-compliance are:

- Failure to file a permit renewal application but remaining in compliance with the expired permit.
- A reported spill with no adverse effects.
- Isolated, minor exceedences of discharge limits.
- Failure to properly sign or certify reports (1st instance).
- Missed interim or final compliance deadline by 30 days or less (good cause).
- Filing a late report (less than 5 days late).

Significant non-compliance has been defined by the Environmental Protection Agency (EPA) as violations which meet one or more of the following criteria:

(1) Chronic violations. Sixty-six percent or more of the measurements exceed the daily maximum limit or monthly average limit in a six month period (any magnitude of exceedence). Any violation of a pH limit is considered a significant violation.

(2) Technical review criteria (TRC) violations. Thirty-three percent or more of the measurements exceed the daily maximum limit or monthly average limit by more than the applicable TRC in a six-month period. (TRC =1.4 for BOD, TSS, and oil and grease; 1.2 for all other pollutants except pH).

(3) Any other violation of effluent limits that is believed to have caused, alone or in combination with other discharges, interference or pass-through or endangered the health of the sewage treatment personnel or the public.

(4) Any discharge of a pollutant that has caused immanent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(5) Violations of compliance schedule milestones contained in a local control mechanism or enforcement order, for starting construction, completing

construction, and attaining final compliance by 90 days or more after the schedule date.

(6) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.

(7) Failure to accurately report non-compliance.

(8) Any other violation or group of violations considered to be significant.

In general, an isolated instance of non-compliance can be met with an informal response or with a NOV. Any significant non-compliance should be responded to with an enforceable order that requires a return to compliance by a specific deadline along with the applicable monetary penalties.

In determining the proper response to a violation, whether significant or not, the following criteria should be considered:

- Magnitude of the violation
- Duration of the violation
- Impact of the violation on the receiving waters
- Impact of the violation on the POTW
- Compliance history of the industrial user
- Good faith of the industrial user

Since pretreatment enforcement is a matter of strict liability, the knowledge, intent, or negligence of the user should not be taken into consideration except when deciding to pursue criminal prosecution.

An administrative penalty is a monetary penalty assessed by the city for violations of pretreatment standards and requirements. Administrative penalties should be used as an escalated enforcement action and are punitive in nature and are not to be related to a specific cost born by the POTW. The amount of the penalty assessed should recapture any economic benefit gained by the non-compliance and/or act as a deterrent to future violations.

Determining the penalty amount which reflects the violation's significance is very important. If the penalty is too small, its deterrent value is lost and the violator may regard it as a tax or nominal charge to pollute. If the penalty is too great, it could bankrupt the user, making necessary investments in pretreatment equipment impossible and forcing unnecessary closure. In cases of extreme hardship, the superintendent or board may consider reducing or suspending the penalty as part of a consent decree or show cause hearing.

Each type of violation has been categorized and a range of penalties assigned to each category, thereby allowing the responsible designated official to apply an appropriate monetary assessment. All penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 0	=	No penalty
Category 1	=	\$50.00 to \$500.00
Category 2	=	\$500.00 to \$1000.00
Category 3	=	\$1000.00 to \$5,000.00
Category 4	=	\$5000.00 to \$10,000.00 and/or direct legal action

Table IV.1 is the enforcement response guide which will be utilized by the City of Newbern to determine appropriate and objective responses to instances of noncompliance. This guide is basically identical to the one contained in the previously cited guidance document. Minor changes have been made in order to adapt it to conditions applicable to Newbern. A column has been added specifying the penalty category each violation falls under. Time frames for enforcement responses are included on the final page of the enforcement response guide.

The enforcement response guide is used as follows:

- (1) Locate the type of non-compliance in the first column and identify the most accurate description of the violation in column 2;
- (2) Assess the appropriateness of the recommended response(s) in columns 3 and 4 using the criteria of magnitude, duration, effects, compliance history, and good faith;
- (3) Apply the enforcement response to the industrial user, specifying corrective action(s) or other responses required of the IU. Column 5 indicates responsible POTW personnel;
- (4) Track IU's response and follow-up with escalated enforcement action if a response is not received within the specified time frame or the violation continues.

ABBREVIATIONS USED IN ENFORCEMENT RESPONSE GUIDE

PC	-	Pretreatment Coordinator
S	-	Superintendent
NOV	-	Notice of violation
AO	-	Administrative order
IU	-	Industrial user

Table IV.1 - Enforcement Response Guide
City of Newbern Pretreatment Program

Unauthorized Discharges (no permit)				
Noncompliance	Nature of Violation	Category	Enforcement Response(s)	Personnel
Unpermitted discharges	IU unaware of requirement; no harm to POTW or environment	0	Phone call; NOV with application form	PC
	IU unaware of requirement; harm to POTW or environment (significant non-compliance)	3	- AO and fine - Civil action, termination of service	PC S
	Failure to apply continues after notification by POTW	4	- Civil action - Criminal investigation - Terminate service	S S S
Failure to renew permit	IU has not submitted application within 10 days of due date	0	Phone call; NOV	PC
Discharge Permit Violation				
Exceedance of local, state, or federal standard	Isolated, not significant	0	Phone call;NOV	PC
	Isolated, significant (no harm)	1	AO to develop spill prevention plan (if not previously submitted) and fine	PC
	Isolated, harmful to POTW or environment	3	- Show cause order - Civil action	PC, S S
	Recurring, no harm to POTW or environment	2	AO and fine	PC
	Recurring, significant (harm to POTW or environment)	4	- AO with fine - Show cause order - Civil action - Terminate service	PC PC, S S S

Table IV.1 (cont.) - Enforcement Response Guide
City of Newbern Pretreatment Program

Monitoring and Reporting Violations				
Noncompliance	Nature of Violation	Category	Enforcement Responses	Personnel
Reporting violation	Report improperly signed or certified	0	Phone call; NOV	PC
	Report improperly signed or certified after notification by POTW	1	- AO - Show cause order	PC PC, S
	Isolated, not significant (5 days late)	0	Phone call; NOV	PC
	Significant (> 5 days late)	1	AO to submit with fine each additional day	PC
	Reports always late; failure to submit (significant non-compliance)	4	- AO with fine - Show cause order - Civil action	PC PC, S S
	Failure to report spill or discharge changes (no harm)	0	NOV	PC
	Failure to report spill or discharge changes (harm)	2	- AO with fine - Civil action	PC S
	Repeated failure to report spills	4	- Show cause order - Terminate service	PC, S S
	Falsification	4	- Criminal investigation - Terminate service	S S

Failure to monitor correctly	Failure to monitor all permit required pollutants	1	NOV or AO	PC
	Recurring failure to monitor	2	- AO with fine - Civil action	PC S
Improper sampling	No evidence of intent	0	NOV	PC
	Evidence of intent	4	- Criminal investigation - Terminate service	S S

Table IV.1 (cont.) - Enforcement Response Guide
 City of Newbern Pretreatment Program

Monitoring and Reporting Violations (cont.)				
Noncompliance	Nature of Violation	Category	Enforcement Responses	Personnel
Failure to install monitoring equipment	Delay of less than 30 days	0	NOV	PC
	Delay of more than 30 days	1	AO to install with fine for each additional day	PC
	Recurring, violation of AO	4	- Civil action - Criminal investigation - Terminate service	PC S S
Permit compliance schedule	Missed milestone less than 30 days, will not affect final milestone	0	NOV	PC
	Missed milestone more than 30 days, will affect final milestone (good cause)	1	AO and fine	PC
	Missed milestone more than 30 days, will affect final milestone (no good cause)	3	- Show cause order - Civil action - Terminate service	PC, S S S
	Recurring violation or violation of AO schedule	4	- Civil action - Criminal investigation - Terminate service	S S S

Table IV.1 (cont.) - Enforcement Response Guide
City of Newbern Pretreatment Program

Other Permit Violations				
Noncompliance	Nature of Violation	Category	Enforcement Responses	Personnel
Waste streams diluted in lieu of pretreatment	Initial violation	1	AO and fine	PC
	Recurring	2	- Show cause order - Terminate service	PC, S S
Failure to mitigate noncompliance or halt production	Does not result in harm	2	NOV	PC
	Does result in harm	4	- AO and fine - Civil action	PC S
Failure to properly operate and maintain facility	Does not result in harm	1	NOV	PC
	Does result in harm	3	- AO and fine - Civil action	PC S
Violations Detected During Site Visits				
Entry denial	Entry denied or consent withdrawn; copies of records denied	1	Obtain warrant and return to IU	PC
Illegal discharge (violation of general discharge prohibitions)	No harm to POTW or environment	2	AO with fine	PC
	Causes harm or evidence of intent and/or negligence	3	- Civil action - Criminal investigation	S S
	Recurring, violation of AO	4	Terminate service	S

Table IV.1 (cont.) - Enforcement Response Guide
 City of Newbern Pretreatment Program

Violations Detected During Site Visits (cont.)				
Noncompliance	Nature of Violation	Category	Enforcement Responses	Personnel
Improper sampling	Unintentional sampling at incorrect location	0	NOV	PC
	Unintentionally using incorrect sample type	0	NOV	PC
	Unintentionally using incorrect sampling techniques	0	NOV	PC
Inadequate record keeping Failure to mitigate noncompliance	Files incomplete or missing (no evidence of intent)	0	NOV	PC
	Recurring	2	AO and fine	PC
Failure to report additional monitoring	Inspection finds additional files (unintentional)	1	NOV	PC
	Recurring (considered falsification)	3	AO and fine	PC

Time Frames for Enforcement Responses

- A. All violations will be identified and documented within 5 days of receiving compliance information.
- B. Initial enforcement responses involving contact with the IU and requesting information on corrective or preventative action(s) will occur within 15 days of violation detected.
- C. Follow up actions for continuing or recurring violations will be taken within 60 days of initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- D. Violations which threaten health, property or environmental quality are considered emergencies will receive immediate responses such as halting the discharge or terminating service.
- E. All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within 30 days of the identification of the significant noncompliance. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-405. Enforcement responses. The following paragraphs describe the various types of enforcement response, procedures, and person(s) responsible for identifying and implementing each level of response, and the time frames for determining that a violation has occurred and for initiating the appropriate response action. Most of this information has already been provided in section 18-404 Table IV.1 (Enforcement Response Guide) and the written formats to be used in preparing the various responses will be taken from the previously cited guidance document.

Notice of violation - NOV's will be sent to any user found to be in violation of the SUO, IU permit, or any other applicable document. As a general rule, NOV's will be issued by the field inspector or the pretreatment coordinator for instances of minor noncompliance and will serve as an official notification to the user that a violation has occurred. Initial enforcement responses involving NOV's will occur within 15 days of violation detection. IU response to the NOV will commence within 10 days of receipt of the NOV and will include an explanation of the violation, a plan for satisfactory correction, and contingencies for prevention of future occurrences.

Consent orders - In certain instances, the superintendent or his designee will enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the IU responsible for the noncompliance. Such orders will also serve as compliance orders and/or schedules for the IU and failure to adhere to the conditions of the consent order will constitute significant noncompliance.

Show cause hearing - The superintendent or his designee may order any IU which violates conditions of the SUO or its permit to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reason(s) for such action, and a request that the user show cause why the proposed enforcement action should not be taken. Notice of the meeting shall be served personally or by registered or certified mail at least 10 days prior to the hearing. If the IU fails to appear as noticed, immediate enforcement action will ensue.

Cease and desist order - If the POTW finds that an IU has violated or continues to violate the sewer use ordinance or its permit, the superintendent may issue an order to cease and desist all such violations and direct the party in noncompliance to do one of the following:

- (1) Comply with the order
- (2) Take appropriate remedial or preventive action needed to properly address a continued or threatened violation, including but not limited to halting operations and terminating the discharge.

Termination of service - The superintendent may suspend the wastewater treatment service and/or revoke an industrial user permit when necessary, if,

in the opinion of the POTW, the discharge presents or may present potential or actual danger to persons, the environment, causes interference to the POTW, or causes the POTW to violate conditions of its NPDES permit.

Civil penalties will be assessed based on the type and severity of violation outlined in the enforcement response guide found in section 18-404, Table VI.1. Penalties will be assessed in an amount not to exceed \$10,000 per day for each violation. The amount of penalty will be determined using the following factors:

- (1) Whether the penalty imposed will be a substantial economic deterrent to the noncompliance;
- (2) Any damages to the POTW due to the noncompliance, which also includes any penalties, costs, and attorney's fees incurred by the POTW as a result;
- (3) Cause of the discharge or violation;
- (4) The severity of the noncompliance and its effect on the POTW and upon the quality of the receiving waters;
- (5) Effectiveness of action taken by violator to rectify the problem;
- (6) The economic benefit gained by the violator.

The superintendent, at his discretion, may establish or adopt a schedule of the amount of civil penalty which can be assessed for certain specific violations or categories of violations. The methods used to determine penalty amounts are summarized in the enforcement response guide.

Tracking of enforcement related situations will primarily be the responsibility of the field inspector and the pretreatment coordinator. Compliance status worksheets will be updated on a weekly basis for each IU. These worksheets will provide instant updates of the compliance status of the IUs and allow personnel to flag noncompliance situations at a glance.

Currently, all permitted IUs are sampled semi-annually by the POTW and submit discharge self-monitoring reports on a regular basis to the POTW. Demand monitoring is instituted when warranted. A scheduled and an unscheduled IU facility inspection are performed semi-annually by the pretreatment coordinator. It is hoped that these actions will provide an effective means of tracking compliance status of IUs quickly and instituting necessary enforcement proceedings in a timely manner. The proposed time frames for initiating enforcement proceedings can be found in the enforcement response guide in section 18-404. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

CHAPTER 5

SEWER USE ORDINANCE

SECTION

- 18-501. Purpose and policy.
- 18-502. Definitions.
- 18-503. Use of public sewers.
- 18-504. Building sewers, connections, and permits.
- 18-505. Private domestic wastewater disposal.
- 18-506. Prohibitions and limitations.
- 18-507. Control of prohibited pollutants.
- 18-508. Wastewater discharge permits.
- 18-509. Inspections, monitoring, and entry.
- 18-510. Enforcement.
- 18-511. Wastewater volume determination.
- 18-512. Wastewater charges and fees.
- 18-513. Administration.
- 18-514. Validity.

18-501. Purpose and policy. The purpose of this chapter is to set uniform requirements for users of the city's wastewater collection system and treatment works to enable the city to comply with the provisions of the Clean Water Act and other applicable federal and state laws and regulations, and to provide for the public health and welfare by regulating the quality of wastewater discharged into the city's wastewater collection system and treatment works. This chapter establishes conditions for connection to the sanitary sewer system. Certain acts which may be detrimental to the sewer system are prohibited. This chapter provides a means for determining wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuance of permits to specific users. This chapter also establishes effluent limitations and other discharge criteria and provides that certain users shall pretreat waste to prevent the introduction of pollutants into the publicly owned treatment works (POTW) which will interfere with the operation of the POTW, may cause environmental damage, interfere with the use or disposal of sewage sludge; and to prevent the introduction of pollutants into the POTW which will pass through the treatment works into the receiving waters or the atmosphere, or otherwise be incompatible with the treatment works; and to improve the opportunities to recycle and reclaim the wastewater and/or sludge resulting from such treatment. This chapter provides measures for the enforcement of its provisions and abatement of violations thereof.

This chapter shall apply to the City of Newbern and to persons outside the city limits who are, by contract or agreement with the City of Newbern, users of the Newbern POTW. Except as otherwise provided herein, the

Superintendent of the Newbern POTW shall administer, implement, and enforce the provisions of this chapter. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-502. Definitions. For the purposes of this chapter, the following phrases and words shall have the meaning defined below:

(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) "Approved pretreatment program" - A program administered by a POTW that meets the criteria established in Chapter 40 of the Code of Federal Regulations (40 CFR) 403.8 and 403.9, and which has been approved by the regional administrator or state director in accordance with 40 CFR 403.11.

(3) "Building sewer" - A sewer conveying wastewater from the premises of a user to a community sanitary sewer.

(4) "Bypass" - The intentional diversion of waste streams from any portion of a treatment facility.

(5) "Categorical standards" - National pretreatment standards established by the EPA for specific industrial user Standard Industrial Classification (SIC) code categories.

(6) "City" - The City of Newbern, Tennessee.

(7) "Combined sewer" - A sewer which has been designed to carry both sanitary sewage and storm water runoff.

(8) "Composite sample" - Sample consisting of several sample portions collected during a specified period (usually 24 hours) and combined to form a representative sample. Composite samples can be collected on a flow proportional or timed basis, depending on the nature of the discharge.

(9) "Conventional pollutant" - Biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform, and oil and grease.

(10) "Direct discharge" - The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(11) "Discharge monitoring report" - A report submitted by an industrial user to the superintendent containing information regarding the nature and concentration of pollutants and flow characteristics of a discharge by the user to the POTW.

(12) "Environmental Protection Agency or EPA" - An agency of the United States or its duly authorized representative.

(13) "Grab sample" - A single sample of wastewater taken at neither set time or flow.

(14) "Holding tank waste" - Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks. This specifically includes wastewater from industrial users conveyed to the POTW by any means other than by a standard sewer tie-on.

(15) "Indirect discharge" - The discharge or the introduction of pollutants from any source regulated under section 307(b) or (c) of the Act into the POTW for the treatment before direct discharge to state waters.

(16) "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. For the purposes of this chapter, an industrial user is a source of non-domestic wastes from industrial processes.

(17) "Infiltration" - Water other than wastewater that enters a sewer system from the ground through such means as defective pipes, pipe joints, connections, or manholes.

(18) "Inflow" - Water other than wastewater that enters a sewer system from sources such as roof leaders, cellar drains, yard drains, area drains, fountain drains, drains from springs and swamp areas, manhole covers, cross connections between storm and sanitary sewers, catch basins, storm water, surface runoff, street wash water, and drainage.

(19) "Interference" - A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal, and is therefore a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System (NPDES) permit, or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations) Section 405 of the CWA, the Solid Waste Disposal Act (SWDA), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

(20) "Mass discharge rate" - The weight of material discharged to the community sewer during a given time interval, normally given in pounds per day.

(21) "Medical wastes" - Wastes capable of producing an infectious disease because they contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

(22) "National pretreatment standard" - Any regulations containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the act which applies to industrial users. These terms also include prohibited discharges promulgated in 40 CFR 403.5 and local limits adopted as part of the city's pretreatment program.

(23) "New source" - Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.

(24) "National Pollutant Discharge Elimination System (NPDES)" - The program for issuing conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 Act.

(25) "Normal wastewater" - Effluent which contains constituents and characteristics similar to effluent from a domestic premises, and specifically for the purpose of this chapter, does not contain these constituents in excess of the following concentrations:

BOD ₅	-	300 mg/l
COD	-	600 mg/l
TKN	-	60 mg/l
NH ₃ -N	-	30 mg/l
TSS	-	300 mg/l
Oil & grease	-	100 mg/l

(26) "Pass through" - A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with other discharges, is a cause of a violation of any requirement of the POTW's NPDES permit.

(27) "Person" - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity or any other legal entity, or their legal representatives, agents, or assigns.

(28) "Pollution" - The man made or man induced alteration of the chemical, physical, biological, and radiological integrity of water.

(29) "Pretreatment" - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process change or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. Where wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).

(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" - A treatment works as defined by Section 212 of the Act, which is owned in this instance by the city. This definition includes any sewers that convey wastewater to such a treatment works and any devices and systems used in the storage, treatment, recycling,

and reclamation of municipal sewage or liquid industrial waste, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment.

(32) "Shall" is mandatory; "May" is permissive.

(33) "Significant industrial user" -

(a) All dischargers subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N.

(b) All non-categorical dischargers that contribute a process waste stream which makes up 5 percent or more of the average dry weather capacity of the wastewater treatment plant (WWTP), or more than an average of 25,000 gallons per day of process wastewater to the WWTP.

(c) All non-categorical dischargers that, in the opinion of the Superintendent, have a reasonable potential to adversely affect the POTW's operations. This shall include but shall not be limited to all centralized waste treatment discharges, all tank and drum cleaning facilities, and all paint manufacturing facilities.

(d) All non-categorical discharges that contain more than 100 pounds per day of combined BOD₅ and TSS load above that level found in normal wastewater, or that contain more than 1,000 pounds in a month of combined BOD₅ and TSS load above that level found in normal wastewater.

(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 given period of duration longer than 15 minutes more than five times the average 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) "Standard industrial classification" - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(36) "Superintendent" - The person designated by the city to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(37) "Toxic pollutants" - Any pollutant or combination of pollutants listed as toxic in 40 CFR part 401 as promulgated by the Administrator of the EPA under the provisions of the Act.

(38) "User" - Any person, firm, corporation, or government entity that discharges, causes, or permits the discharge of wastewater into a community sewer system.

(39) "Wastewater" - The liquid and water borne 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.

(40) "Wastewater constituents and characteristics" - The individual chemical, physical, bacteriological, and radiological parameters, including toxicity, volume, and flow rate and such other parameters that serve to classify, define, or measure the contents, quality, quantity, and strength of wastewater.

(41) "Waters of the State of Tennessee" - Any water, surface or underground, within the boundaries of the state.

The following abbreviations shall have the following meanings:

- | | | | |
|------|------------------|---|--|
| (1) | BAT | - | Best available technology |
| (2) | BPT | - | Best practical technology |
| (3) | BOD ₅ | - | Biochemical oxygen demand (5-day) |
| (4) | CFR | - | Code of Federal Regulations |
| (5) | COD | - | Chemical oxygen demand |
| (6) | CWA | - | Clean Water Act |
| (7) | EPA | - | Environmental Protection Agency |
| (8) | GMP | - | Good management practices |
| (9) | MBAS | - | Methylene blue activated substances |
| (10) | mg/l | - | milligrams per liter |
| (11) | NPDES | - | National Pollutant Discharge Elimination System |
| (12) | POTW | - | Publicly owned treatment works |
| (13) | RCRA | - | Resource Conservation and Recovery Act |
| (14) | SIC | - | Standard Industrial Classification |
| (15) | SWDA | - | Solid Waste Disposal Act |
| (16) | TDEC | - | Tennessee Department of Environment and Conservation |
| (17) | TSS | - | Total suspended solids |
| (18) | USC | - | United States Code |
| (19) | WWTP | - | Wastewater treatment plant |

(Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-503. Use of public sewers. (1) Connection with sanitary sewer required. (a) Sewer connection required. Every building having plumbing fixtures installed and intended for human habitation, occupancy, or use on premises abutting a street, alley, or easement in which segment there is a sanitary sewer which is within 500 feet of the building drain of the parcel shall be considered as being served by the city's sanitary sewer system.

All new buildings hereafter constructed on property which is served by the POTW shall not be occupied until the connection has been made. The owner or occupant of each lot or parcel of land which is now served or which may hereafter be served by the POTW shall cease to use

any other method for the disposal of sewage except as provided for direct discharge by the TDEC or by discharge to a properly functioning and approved septic tank. Septic tanks shall not be used where sewers are available. The superintendent shall make any decision as to the availability of sewers. Notwithstanding the above exceptions, all premises served by the POTW are subject to sewer use charges as described in section 8-512 of this chapter.

(b) Unconnected sewer service lines prohibited. Except for discharge to a properly functioning septic tank system or discharges permitted by an NPDES permit issued by the TDEC, the discharge of sewage into places other than the POTW is prohibited.

(c) Insufficient capacity, connection moratorium. In those parts of the sewer system where no additional capacity exists and a sewer moratorium has been established pursuant to orders of the TDEC, no new or additional sewer connections shall be permitted. Permits issued prior to the date of the moratorium may be completed. No new plumbing permits shall be issued for new buildings in a moratorium area after the effective date of the moratorium. A moratorium shall continue to be in effect until capacity restriction has been corrected.

(2) Adequate and minimum fixtures. (a) Minimum number of fixtures. A dwelling shall have at least one commode, one bathtub or shower, one lavatory, one kitchen-type sink, and an adequate source of hot water for each family unit to meet minimum basic requirements for health, sanitation, and personal hygiene. All other buildings, structures, or premises intended for human occupancy or use shall be provided with adequate sanitary facilities as may be required by any other law or regulation, but not less than one commode and one hand washing lavatory.

(b) Adequate water for disposal of waste. It shall be unlawful for any person in possession of premises into which a pipe or other connection with the sanitary sewers and drains have been laid to permit the same to remain without adequate fixtures attached to allow sufficient quantity of water to be so applied as to properly carry off all waste matter and keep the same unobstructed.

(3) Right to enter and inspect connection. The superintendent, building inspector, or their representative shall have free and unobstructed access to any part of the premises where house drains or other drains connected with or draining into the sanitary sewer are laid for the purpose of examining the construction, condition, and method of use of the same, upon cause of reasonable suspicion that there may be inadequate facilities, the facilities present may not be properly functioning, there is an improper discharge, or upon a periodic systematic inspection of a particular drainage basin or other large segment of the system through those facilities at any time of the day between the hours of 7:00 a.m. and 6:00 p.m. or at any other time in the event of an

emergency. If such entry is refused, the sewer service may be disconnected upon reasonable notice and an opportunity for a hearing. The service may be suspended immediately in the event of an emergency if there is reasonable cause to suspect that the discharge will endanger the public health or the environment, shall have the potential to disrupt the treatment process, or shall damage the POTW's lines or facilities, and a hearing shall thereafter be afforded the user as soon as possible.

(4) Demolished buildings. When a building is demolished, it shall be the responsibility of the owner to have the sewer service line plugged securely so that extraneous water will not enter the sewer. The owner of the premises or his representative shall notify the superintendent of such a plug and allow same to be inspected prior to covering any work. If such a line is to be reused, it must first undergo inspection by the superintendent and be in conformity with the existing standards.

(5) Temporary discharges. No person shall discharge any substance directly into a manhole or other opening in a sanitary sewer other than through an approved building sewer unless they have been issued a temporary permit by the superintendent. A temporary permit may be issued at the discretion of the superintendent to provide for discharges from portable facilities for festivals or public shows or for other reasonable purposes. The superintendent shall incorporate in such a temporary permit such conditions as he deems reasonably necessary to ensure compliance with provisions of this chapter. The user shall be required to pay reasonable charges and fees for the permit and service in an amount not less than the charges and fees for normal discharges. Any discharge other than through an approved building sewer or in accordance with a permit issued by the superintendent shall be unlawful.

(6) Vehicle wash racks. All gasoline stations, garages, self-service vehicle washers, and other public wash racks where vehicles are washed shall install catch basins in conformity with the plumbing code in accordance with a permit obtained from the building official. In the event any existing premises does not have a catch basin and the sewer line servicing the facility stops up due to grit or slime in the sewer lines, then the owner or operator of such premises shall be required to modify these facilities to construct a catch basin as a condition of continuing use of the system. If such users are industrial users as defined in section 15-508 of this chapter, a permit as specified therein will be required.

(7) Grease, grit, oil, and lint traps. Restaurants, laundries, wash racks, service stations, private multi-user systems, engine or machinery repair shops, and other facilities that produce grease, grit, oil, lint, or other materials which accumulate and cause or threaten to cause stoppages or impair the efficiency of the POTW sewers or threaten the safety of its employees, shall install and maintain a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device

shall be subject to prior approval of the superintendent and constructed in accordance with applicable building codes.

(8) Multi-use private sewer systems. Excluding those industrial waste facilities with a permit issued pursuant to section 15-508, the owner or operator of a private sewer system such as, but not limited to, multi-tenant buildings, building complexes, and shopping centers shall be responsible for the quality of wastewater discharged at the point of connection to the POTW's sanitary sewer system and shall be responsible for any violations of the provisions of this chapter, including liability for the damage or injury caused to the POTW as a result of any discharge through the private system. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-504. Building sewers, connections, and permits. (1) Installation, maintenance, repair of sewer service lines. (a) Definition. A standard sanitary sewer service line is a minimum 4 inch pipe extending from the sewer main or trunk location in a street, alley, or easement to the property served by the main trunk.

(b) Installation of sewer service lines. Four inch building sewers shall be laid on a grade greater than 1/8" per foot (at least 1%). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2 feet per second. The slope and alignment of all building sewers shall be neat and regular.

Building sewers shall be constructed only of one of the following approved materials:

- (i) cast iron soil pipe using rubber compression joints of approved type;
- (ii) polyvinyl chloride pipe with rubber compression joints;
- (iii) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or
- (iv) similar materials of equal or superior quality following superintendent approval. Under no circumstances will cement mortar joints be acceptable. Each connection to the sewer system must be made at a wye, or service line stubbed out, or in the absence of any other provision, by means of a saddle of a type approved by the city, attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sewer is at a grade of 1 percent or more. In cases where basement or floor levels are lower than the ground levels at the point of connection to the sewer, adequate precautions through the 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 sewer, wastes carried by such building drain shall be lifted by an approved means and discharged into the POTW sewer.

(c) Cleanouts. A cleanout shall be located 5 feet outside of the building, one as it taps on to the utility laterally and one at each change of direction of the building sewer greater than 45 degrees. Additional cleanouts shall be placed not more than 75 feet apart in horizontal building sewers of 4 inch diameter and not more than 100 feet apart for larger pipes. Cleanouts shall extend 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 inches on a four inch pipe.

(d) Fees. 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. The city reserves the right to impose a sewer service line charge for every sanitary sewer service line installed where a lateral sewer connection has been provided for use by the applicant. The rate of charge will be established by the superintendent.

(e) Title and maintenance. When a property owner ties into a sanitary sewer service line and pays the appropriate sewer service line fees, the city, by appropriate instrument, shall convey and release to the property owner, all its right, title, and interest in the sanitary sewer service line so installed by the city. Thereafter, all repairs and maintenance of the sanitary sewer service line shall be the responsibility of the property owner or user of the sewer; provided, for all sanitary sewer service lines hereafter installed by developers in subdivisions and not by the utility, for which no sewer service line charge is charged to the property owner, all repairs, and maintenance of such sanitary sewer service lines shall be the responsibility of either the property owner, user of the sewer, or the developer, as the owner, user, and developer shall agree by separate contract between themselves.

(f) Location of sewer stub-out. The plumbing contractor is responsible for locating the sewer stub-out. POTW personnel will provide whatever information is available for this purpose. If no "Y" or tee exists within 3 feet of either side of the location shown on the sewer plats, then a tap will be provided by the POTW when the sewer main is exposed. If a manhole needed for locating a service line has been lost, then the POTW shall be responsible for locating the manhole.

(g) Taps on utility sewers. All taps made directly into the city's sewer lines shall be made by sewer maintenance personnel. The

plumbing contractor shall excavate to the city's sewer and expose the pipe in preparation for the tap. Only one service line shall be allowed to be installed in a trench. New taps shall be made using a "Y"-type connection.

(h) Manhole requirements. A new manhole will be required whenever a sewer service line larger than 6 inches is needed to tie into the city's sewer. The plumbing contractor shall excavate to the sewer and sufficiently expose the pipe for installation of the manhole. Sewer maintenance personnel shall install the manhole. The cost of the manhole, including labor and materials, shall be charged to the owner after construction is completed.

(i) Maintenance of service lines. (i) Duty to maintain sewer service line. All repairs and maintenance of the sewer service line, to include correction of excessive inflow and infiltration shall be the responsibility of the property owner or user of the sewer. The repairs and maintenance includes the repair or replacement of the sewer service line, as may be necessary in order to meet the specifications of the city. If smoke testing, or any other reliable method of inspection conducted by the superintendent, or his agent, identifies a sewer service line(s) which do not meet the specifications of the city, then the superintendent will undertake the following actions in the city's discretion:

(A) Notification procedures. The superintendent will notify the property owner and/or property user, via certified mail, return receipt requested, that the sewer service line is not in compliance with the specifications of the city, and the nature of the problems identified on the sewer service line. The notification shall also outline the steps which in the opinion of the superintendent, may be required in order to bring the sewer service line into compliance and shall notify the property owner that all actions necessary to bring the sewer service line into compliance with the city's specifications must be completed within 60 days from the date of the written notice, and shall be entirely at the property owner's expense. The notice shall also briefly describe the city's rights to undertake remedial action under Section (B) of this subsection and shall also outline the appeal rights of the property owner under Section (D).

(B) Remedial repairs undertaken by city. In the event that the property owner fails to bring the sewer service line into compliance with the city's specifications within 60 days from receipt of the notice, said failure will result in the appointment by the property owner of the city

superintendent as his or its agent, will full authority to arrange or undertake all remedial actions required in the opinion of the superintendent to bring the sewer service line into compliance with the city's specifications and shall entitle any person, firm or corporation performing such work at the behest of the city to claim any and all statutory liens on said real estate in accordance with the general laws of this state regarding mechanic's liens.

(C) Repair costs assessed as lien against real estate. In the event the superintendent finds it necessary to perform such work utilizing city employees, and/or equipment and/or materials, then the City of Newbern shall have a lien upon such real estate which shall be enforceable the same as liens for unpaid city taxes thereon, for the costs of the repairs.

(D) Appeal rights. Any property owner who may be aggrieved by the actions of the superintendent shall file a written appeal of the superintendent's decisions and findings, prior to the appointment of the superintendent as the property owner's agent, to the Board of Mayor and Aldermen of the City of Newbern, which shall have the full authority to resolve any dispute.

The city shall be responsible for the maintenance of collector lines only up to the point where the owner's service line connects to the city's lines.

(j) Methods of installation. The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction or repair of a building sewer which have not been described in this section shall conform to the requirements of the building or 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 Federation manuals. Any deviation from the prescribed procedures must be approved by the superintendent.

(k) Public safety. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from potential hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner acceptable to the city.

(l) Prohibitions. No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains, or other sources of surface run-off or groundwater to a building sewer or drain which in turn is connected either directly or indirectly to the sanitary sewer.

(2) Service line to enter sewer at junction; exceptions. No service lines shall enter the sanitary sewer at any point except where a junction has been made unless special permission has been given by the superintendent. In any case where such permission has been given, the work shall be done under the inspection of the superintendent or his representative and at the risk and expense of the party making the connection.

(3) 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 sanitary sewer. Applications shall be required from all new dischargers as well as for existing dischargers desiring additional service. Connection to the sanitary sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with section 18-504 of this chapter and an inspection has been performed by the superintendent or his representative.

Connections made without an approved application may be severed by order of the superintendent. Such unapproved connection may be allowed to remain active if inspected and accepted; however, the owner shall be required to pay an alternative fee in lieu of the permit application fee in an amount double the current fee.

The receipt by the city of a prospective customer's application for service shall in no way 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, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service, except that conditional waivers may be granted for additional services by the superintendent for interim periods if compliance may be assured within a reasonable period of time.

(4) Acceptance of work. All sewer construction involving interceptor lines, pump stations, metering stations, and appurtenances which shall become part of the city's sewer system shall not be constructed until the plans are approved and the construction inspected and approved by the superintendent. Any construction work where sewers are opened, uncovered, or undercut must also have the prior approval of the superintendent. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992; and amended by Ord. #2003-4, June 2003)

18-505. Private domestic wastewater disposal. (1) Availability. Where a public sanitary sewer is not available under the provisions of section 18-503(1) of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the requirements of this section.

Where a public sewer shall become available, the building sewer shall be connected to said sewer within sixty days after official notification by the superintendent or his representative 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 sub-surface oil absorption facilities where the area of the lot is less than that specified by the city of Newbern and the Dyer 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 Dyer County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the city and the Dyer 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 and Dyer County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the city and Dyer County Health Department when the work is ready for final inspection, and 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 and Dyer County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all the recommendations of the TDEC, the Dyer County Health Department, and the city of Newbern. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(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.

(f) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the city and/or the Dyer County Health Department. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-506. Prohibitions and limitations. (1) Purpose and policy. This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be legally discharged to the POTW. Pretreatment of some wastewater discharges will be required to achieve the goals established by this section and the Clean Water Act. The specific limitations set forth in this section are subject to change as necessary to enable the city to provide efficient wastewater treatment, to protect the public health and environment, and to enable the city to meet requirements contained in its NPDES permit. The superintendent shall review said limitations from time to time to ensure that they are sufficient to protect the health and safety of POTW personnel and the operation of the treatment works to enable the facility to comply with its NPDES permit, provide for a cost effective means of operating the treatment works, and protect the public health and environment. The superintendent shall recommend changes or modifications as necessary.

(2) Prohibited pollutants. No person shall introduce into the POTW any pollutant(s) which cause pass-through or interference. Additionally, the following specific prohibitions apply:

(a) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, pollutants with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade), as determined by a Pensky-Martens closed-cup tester, using the test method specified in the American Society for Testing and Materials (ASTM) D-93-79 or D-93-80k, or a Setaflash closed-cup tester, using the test method specified in ASTM D-3278-78, or pollutants which cause an exceedance of 10 percent of the lower explosive limit (LEL) at any point within the POTW.

(b) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with a pH less than 6.0 or greater than 10.0.

(c) Solid or viscous pollutants in amounts which cause obstruction to the flow of the sewers, or other interference with the operation of or which may cause damage to the POTW, including waxy or other materials which tend to clog and/or coat a sewer line or other related appurtenances.

(d) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge of such volume or strength (slug) so as to cause interference in the POTW or individual unit operations or cause adverse effects on its workers or the environment.

(e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds 104 degrees Fahrenheit (40 degrees Centigrade).

Unless a higher discharge temperature is specified in the user's wastewater discharge permit, no user shall discharge into a sewer line or other appurtenance of the POTW wastewater with a temperature exceeding 150 degrees Fahrenheit (65.5 degrees Centigrade).

(f) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(g) Any trucked or hauled pollutants, except at discharge points specified by the POTW.

(h) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that cause interference or pass-through.

(i) Any pollutant which causes a discoloration of the WWTP effluent resulting in a degradation of receiving water quality and/or NPDES permit violation.

(3) Affirmative defenses. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in section 18-506(2) of this chapter where the user can demonstrate one of the following:

(a) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass-through or interference.

(b) A local limit designed to prevent pass through and/or interference, as the case may be, was developed pursuant to sections 18-506(10) and 18-506(11) of this chapter for each pollutant in the user's discharge that caused pass-through or interference and the user was in compliance with each such local limit directly prior to and during the pass-through or interference.

(c) If a local limit designed to prevent pass-through and/or interference, as the case may be, has not been developed for the pollutant(s) that caused the pass-through or interference and the user's discharge directly prior to and during the pass-through or interference did not change substantially in nature of constituents from the user's prior discharge activity when the POTW was regularly in compliance with its NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(4) Wastewater constituent evaluation. The wastewater of every industrial user shall be evaluated using the following criteria:

(a) Wastewater containing any element or compound which is known to be an environmental hazard and which is not adequately removed by the treatment works.

(b) Wastewater causing a pass-through, discoloration, foam, floating oil and grease, or any other condition in the quality of the treatment works effluent such that receiving water quality requirements established by law cannot be met.

(c) Wastewater causing conditions at or near the city's treatment works which violate any statute, rule, or regulation of any public agency of Tennessee or the United States.

(d) Wastewater containing any element or compound known to act as a lacrimator, known to cause nausea, or known to cause odors constituting a public nuisance.

(e) Wastewater causing interference with the effluent or any other product of the treatment process, residues, sludges, or scums causing them to be unsuitable for reclamation, reuse, causing interference with the reclamation process, or causing them to be unsuitable for disposal.

(f) Wastewater discharged at a point in the collection system that is upstream of any overflow, bypass, or combined sewer overflow and which may thereby cause special environmental problems or specific discharge limitations.

(g) Wastewater having constituents and concentrations in excess of those listed in section 18-506(10) or cause an exceedance of the limits in section 18-506(11).

(h) The capacity of existing sewer lines to carry the anticipated wastewater flow, particularly with respect to any problems, overflows, or overloads caused by heavy rain infiltration.

(i) The toxicity of each wastewater shall be evaluated by an appropriate biomonitoring technique to determine if a specific discharge may significantly affect the overall toxic level of the POTW influent.

The superintendent shall establish reasonable limitations, prohibitions, or monitoring requirements in addition to the limits established pursuant to sections 18-506(5) and 18-506(10) of this chapter in the wastewater discharge permit of any industrial user that discharges wastewater violating any of the above criteria or that has processes that generate wastewater that could violate any of the above criteria prior to pretreatment as shall be reasonably necessary to achieve the purpose and policy of this section.

(5) National pretreatment standards. Certain industrial users are now or hereafter shall become subject to National Pretreatment Standards promulgated by the EPA specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to such a standard shall comply with all requirements and with any additional or more stringent limitations contained in this chapter. Compliance with current or newly promulgated National Pretreatment Standards for existing sources shall be within 3 years following promulgation of the standards unless a shorter compliance time is specified. Compliance for new sources shall be required upon promulgation of the standard. New sources shall have in operating condition and shall start up all pollution control equipment required to meet applicable pretreatment standards before commencing discharge. New sources must meet applicable pretreatment standard within 90 days of commencement of discharge.

(6) Dilution. Except where expressly authorized by an applicable National Pretreatment Standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

(7) Limitations on radioactive waste. No person shall discharge or permit to be discharged any radioactive waste into a community sewer, except as follows:

(a) When the person is authorized to use radioactive materials by the TDEC or the Nuclear Regulatory Commission (NRC).

(b) When the waste is discharged in strict conformity with applicable laws and regulations of the agencies having jurisdiction.

(c) When a copy of permits received from said regulatory agencies has been filed with the superintendent.

(8) Septic tank hauling, pumping, and discharge. No person owning vacuum or cesspool pump trucks or other liquid waste transport trucks shall discharge sewage directly or indirectly into the POTW, unless that person first

receives from the superintendent a septic tank discharge permit for each vehicle used in this manner. All applicants for a septic tank discharge permit shall complete the forms required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the superintendent.

(a) The owners of such vehicles shall affix and display the permit number in 4 inch block figures on the side of each vehicle used for such purposes.

(b) The permit shall be valid for a period of 1 year from date of issuance, provided that the permit shall be subject to suspension or revocation by the superintendent for violation of any of the provisions of the chapter or other applicable laws or regulations. A revocation or suspension of the permit shall be for a period not to exceed 5 years. Such revocation for suspension shall bind the permittee, any member of the immediate family of the permittee, or any person who has purchased the business or a substantial amount of the assets of the permittee. Users found operating in violation of a permit issued under this section and whose permit is therefore revoked by the superintendent, shall be notified of the violation by certified mail or by notice personally delivered to the user.

(c) Septic tank discharge permits are not automatically renewed. Application for renewal must be made to the superintendent.

(d) Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. All other hauled wastes shall be governed by section 18-506(9). Any user transporting, collecting, or discharging non-domestic industrial process wastewaters or a mixture of such wastewaters with domestic wastewaters shall obtain a holding tank discharge permit in accordance with section 18-506(9).

(e) The superintendent shall designate the locations and times where such trucks may be discharged and may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance, or where it appears that a truckload of waste contains industrial process waste or a mixture of domestic sewage and industrial process waste.

(f) The superintendent shall have authority to investigate the source of any hauled waste and to require testing the waste at the expense of the discharger prior to discharge.

(9) Other holding tank wastes. No user shall discharge any other holding tank wastes, including hauled industrial waste, into the POTW unless he has been issued a holding tank discharge permit by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. All applicants for a holding tank discharge permit shall complete forms required by the

superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the superintendent. All such dischargers and transporters must show that they have complied with federal manifests and other regulations of the RCRA. The permit shall state the specific location of the discharge, the time of day the discharge is to occur, the volume of discharge, the source and character of the waste, and shall limit the wastewater constituents of the discharge. The user shall pay any applicable charges or fees and shall comply with the conditions of the permit.

(10) Criteria to protect the treatment plant. The POTW shall monitor the treatment plant influent for each pollutant in the following tables. Industrial users shall be subject to reporting and monitoring requirements as set forth in this section. In the event that the influent at the POTW reaches or exceeds the levels set forth in these tables, the superintendent shall initiate technical studies to determine the cause of the exceedance and shall recommend to the city the necessary remedial measures. The superintendent may also recommend changes to these criteria in the event that the POTW effluent standards are changed, there are changes in applicable laws or regulations, or changes are needed for more effective operation of the POTW.

The treatment facility consists of two separate wastewater treatment processes discharging into a combined effluent point. Protection criteria have been established for each process and are listed in Tables A1 and A2.

Table A1 - Plant Protection Criteria
Newbern Oxidation Ditch Influent

Parameter	Protection Criteria (mg/l)
Copper	0.419
Chromium	0.333
Nickel	0.240
Cadmium	0.0045
Lead	0.033
Mercury	0.003
Silver	0.020
Zinc	0.833
Cyanide	0.742
Toluene	0.214
Benzene	0.015
1,1,1 trichloroethane	0.200
Ethylbenzene	0.029
Carbon tetrachloride	0.075
Chloroform	0.258
Tetrachloroethylene	0.125
Trichloroethylene	0.091
1,2 trans dichloroethylene	0.0045
Methylene chloride	0.132
Phenol (total)	0.500
Naphthalene	0.0045
Total phthalates*	0.170

*The sum of bis (2-ethylhexyl) phthalate, butyl benzyl phthalate, di-n-butyl phthalate, and diethylphthalate.

Table A2 - Plant Protection Criteria
Rowe Oxidation Ditch Plant Influent

Parameter	Protection Criteria (mg/l)
Copper	0.419
Chromium	0.333
Nickel	0.240
Cadmium	0.0045
Lead	0.033
Mercury	0.003
Silver	0.020
Zinc	0.833
Cyanide	0.742
Toluene	0.214
Benzene	0.015
1,1,1 trichloroethane	0.200
Ethylbenzene	0.029
Carbon tetrachloride	0.075
Chloroform	0.258
Tetrachloroethylene	0.125
Trichloroethylene	0.091
1,2 trans dichloroethylene	0.0045
Methylene chloride	0.132
Phenol (total)	0.500
Naphthalene	0.0045
Total phthalates*	0.170

*The sum of bis (2-ethylhexyl) phthalate, butyl benzyl phthalate, di-n-butyl phthalate, and diethylphthalate.

(11) Storm drainage, ground, unpolluted and contaminated storm water. (a) No storm water, ground water, rain water, street drainage, rooftop drainage, basement drainage, subsurface drainage, foundation drainage, yard drainage, swimming pool drainage, process water drainage, cooling water, or other unpolluted or minimally polluted water shall be discharged into the city's sewer unless no other reasonable alternative is available, except with permission from the superintendent. Reasonable conditions shall be prescribed, and a sewer service charge will be issued based upon the quantity of water discharged as measured by a flow meter or a reasonable estimate accepted by the superintendent. All users shall be required to maintain their private sewer lines so as to prevent infiltration of ground or storm water as a condition of use of the system and shall immediately replace or repair any leaking or damaged lines.

(b) The POTW will accept discharge of contaminated storm water if the following criteria are met:

(i) all known and available technology will not prevent contamination or treat contaminated water to meet state standards for discharge to receiving waters or will cause unreasonable financial burden;

(ii) the contaminated storm water meets the POTW's discharge limits and all state and federal pretreatment requirements; and

(iii) the volume of discharge will not exceed the hydraulic loading in the collection system or the treatment plant.

(12) Use of garbage disposals. No waste from garbage disposals shall be discharged into the POTW's sewers except from private garbage disposals used in an individual residence or upon permit issued by the superintendent for preparation of food consumed on premises, and then only when applicable fees are paid. It shall be unlawful for any person to use a garbage disposal grinder connected to the sewer system for the purpose of grinding and discharging plastic, paper products, inert materials, or anything other than the waste products from normal food preparation and consumption.

(13) Hospital or medical waste. It shall be unlawful for any person to dispose of medical waste, surgical operating room waste, or delivery room waste into the sewer.

(14) Obstruction or damage to sewer. It shall be unlawful for any person to deposit or cause to be deposited any waste which may obstruct or damage storm or sanitary sewer lines or which may inhibit, disrupt, or damage either system, including the sewage treatment process and operations. This prohibition includes all substances, whether liquid, solid, gaseous, or radioactive and whether associated with human habitation, of human or animal origin, or from any producing, manufacturing, or processing. It shall be unlawful to block or obstruct any catch basin, sewer line, or other appurtenance; or to break, injure, or remove any portion from any part of a sewer, drain, or catch basin,

including plates covering manholes. (Ord. #88-1, March 1988; as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992; as amended by Ord. #93-1, March 1993; and further amended by Ord. #96-7, Oct. 1996; and Ord. 97-1, April 1997)

18-507. Control of prohibited pollutants. (1) Pretreatment requirements. Industrial users of the POTW shall design, construct, operate, and maintain wastewater pretreatment facilities when necessary to reduce or modify the user's wastewater composition to achieve compliance with the limitations in wastewater strength set forth in sections 18-506(10) and 18-506(11) of this chapter, to meet applicable National Pretreatment Standards, to prevent slug discharges or to meet any other wastewater condition or limitation contained in the industrial user's wastewater discharge permit.

(2) Plans and specifications. Plans and specifications for wastewater monitoring and pretreatment facilities shall be prepared, signed, and dated and sealed by a registered engineer, and be submitted to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review the plans within 30 days of receipt and recommend to the user any appropriate changes. Prior to beginning construction of a monitoring or pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the superintendent. Prior to beginning construction, the industrial user shall also secure all necessary permits.

The user shall construct the pretreatment facility within the time frame specified in the compliance schedule of the wastewater discharge permit. Following completion of construction, the user shall provide the superintendent with as-built drawings to be maintained by the superintendent. The review of such plans and specifications will in no way relieve the user from the responsibility of modifying the facilities as necessary to produce effluent complying with the provisions of this chapter. Any subsequent changes in the pretreatment facilities or methods of operations shall be reported to and approved by the superintendent prior to implementation.

(3) Prevention of accidental discharges. All 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. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of regulated waste shall be subject on a case by case basis to a special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for accidental discharge. Plans, specifications, and operating procedures shall be developed by the user and submitted to the superintendent for review.

(4) Oil and grease control program. Disposal of oil by discharge to the sewer system is not permitted. Oils include automotive lubricating oils, transmission and brake fluid, other industrial oils, and vegetable oils used in a restaurant or food processing facility. Dischargers of oil and grease waste shall be required to provide an equivalent of primary treatment based on gravity separation of visible and floating oil and grease sludge from wastewater discharges. Such treatment processes shall be subject to good management practices and approval by the superintendent. Discharges shall also be subject to monitoring, entry, inspection, reporting, and other requirements as determined by the superintendent. These dischargers may be required to apply for industrial waste discharge permits if it is determined that the dischargers are a source of prohibited pollutants, toxic pollutants, or are otherwise controlled by federal or state regulations. All dischargers of oil and grease as listed above are subject to all enforcement and penalty provisions of this chapter.

(5) Slug control program. (a) Each user shall provide protection from slug discharges of restricted materials or other substances regulated by this section. A slug is defined as any pollutants, including oxygen demanding pollutants, released in a discharge of such volume or strength as to cause interference in the POTW or individual unit operations or cause adverse effects upon its employees or the environment. No user shall be permitted to discharge into the system until the need for slug control plans or procedures has been reviewed by the superintendent.

(b) Certain users will be required to prepare spill response plans showing facilities and procedures for providing this protection. These plans shall be submitted to the superintendent for review and approval. All users required to have such a plan shall submit it within 30 days of notification by the superintendent and complete implementation within 90 days of notification.

(c) In the case of a slug discharge, it is the responsibility of the user to immediately notify the POTW of the incident by telephone or in person. Information concerning the location of the discharge, type of waste, concentration and volume, and corrective action shall be provided by the user.

Within 5 days following a slug discharge, the user shall submit a detailed written report describing the cause of the discharge and the measures being taken by the user to prevent future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property, nor shall notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

(d) A notice shall be permanently posted on the user's premises advising employees of a contact to call in the event of a slug discharge.

The user shall ensure that all employees who may cause or allow such slug discharge to occur are advised of the proper emergency notification procedure.

(6) Prohibition of bypass. (a) Except as allowed in paragraph (c) below, bypass is prohibited, and the superintendent may take enforcement action against an industrial user for a bypass, unless:

(i) The bypass was 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, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed.

(iii) The user submitted notices as required in section 18-509(13).

(b) The superintendent may approve an anticipated bypass after considering its adverse effect if the superintendent determines that it will meet the 3 conditions listed in paragraph (a) of this section.

(c) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation. These bypasses are not subject to the reporting provisions of section 18-509(13).

(7) Exceptions to wastewater limitations. (a) Applicability. This section provides a method for industrial users subject to the limitation on wastewater pollutants listed in sections 18-506(10) and 18-506(11) to apply for and receive a temporary exemption to the discharge level for one or more pollutants or parameters.

(b) Time of application. Applicants shall apply for a temporary exemption when they are required to apply for a wastewater discharge permit or renewal provided that the superintendent allows applications at any time unless the applicant has submitted the same or substantially similar application within the preceding year that was denied by the board.

(c) Written applications. All applications for an exception shall be in writing and shall contain sufficient information for evaluation of each of the factors to be considered by the superintendent pursuant to paragraph (d) of this section.

(d) Review by the superintendent. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have 30 days following notification by the superintendent to correct such deficiencies. This 30 day period may be extended by the superintendent upon application and

for just cause. Upon receipt of a complete application, the superintendent shall evaluate it within 30 days and approve or deny the application based upon the following factors:

(i) The superintendent shall consider if the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in sections 18-506(10) and 18-506(11) and grant an exception only if such exception is within limitations of applicable federal regulations.

(ii) The superintendent shall consider if the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the EPA under the provisions of section 307(a) of the Act, or similar state regulation, and then grant an exception only if such exception may be granted within the limitations of federal and state regulations.

(iii) The superintendent shall consider if the exception would create conditions or a hazard to city personnel that would reduce the effectiveness of the POTW taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works.

(iv) The superintendent shall consider the possibility of the exception causing the POTW to violate its NPDES permit.

(v) The superintendent shall consider if the exception would cause elements or compounds to be present in the sludge of the treatment works which would prevent sludge use or disposal by the POTW or which would cause the POTW to violate any regulation promulgated by EPA under the provisions of section 405 of the Act or similar state regulatory measure.

(vi) The superintendent may consider the cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive cost alone shall not be the basis for granting an exception.

(vii) The superintendent may consider the age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge.

(viii) The superintendent may consider the process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge.

(ix) The superintendent may consider the engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.

(x) The superintendent may consider an application for exception based upon the fact that water conservation measures instituted or proposed by the user result in a higher concentration

of particular pollutants in the wastewater discharge of the user without increasing the amount of mass pollutants discharged. To be eligible for an exception under this subparagraph, the applicant must show that except for wastewater conservation measures, the applicant's discharge has been or would be in compliance with the limitations on wastewater strength set forth in section 18-506(10). No such exception shall be granted if the increased concentration of pollutants in the applicant's wastewater would have significant adverse impact upon the operation of the POTW.

(e) Review by board. The board shall review any appeal to a denial by the superintendent of an application for an exception and shall take into account the same factors considered by the superintendent. At such a hearing, the applicant and the superintendent shall have the right to present relevant proof by oral or documentary evidence. The procedure set forth in section 18-510(1) shall be applicable to such a hearing. The applicant shall bear the burden of proof in an appeal hearing.

(f) Good management practices. The superintendent or board shall not grant an exception unless the applicant demonstrates to the board that good management practices (GMP) are being employed to reduce or prevent the contribution of pollutants to the POTW. GMP's include, but are not limited to, preventive operating and maintenance procedures, schedule of activities, process changes, prohibiting activities, and other management practices to reduce the quantity or increase the quality of effluent discharged and to control plant site runoff, spillage, leaks, and drainage from raw material storage. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-508. Wastewater discharge permits. (1) Applicability. The provisions of this chapter are applicable to all industrial users of the POTW. The city has an "approved POTW pretreatment program" as that term is defined in 40 CFR, Part 403.3(d) and any permits issued hereunder to industrial users who are subject to or who become subject to a National Categorical Pretreatment Standard shall be conditioned upon the industrial user also complying with all applicable substantive and procedural requirements promulgated by the EPA or the State of Tennessee regarding such categorical standards unless an exception for the city's program or for the specific industrial categories is authorized.

(2) Application and permit requirements. Prior to discharging non-domestic waste into the POTW, all significant industrial users of the POTW shall obtain a wastewater discharge permit. The industrial user shall request that the superintendent determine if the proposed discharge is significant as defined in section 18-502. If the discharge is determined not to be significant, the superintendent may still establish appropriate discharge conditions for the

user. Any noncategorical industrial user designated as significant may petition the superintendent to be deleted from the list as significant on the grounds that there exists no potential for adverse effect on the POTW's operation or violation of any pretreatment standard or requirement.

All significant industrial users shall obtain an industrial wastewater discharge permit and shall complete such forms as required by the superintendent, pay appropriate fees, and agree to abide by the provisions of this chapter and any specific conditions or regulation established by the superintendent. All original applications shall be accompanied by a report containing the information specified in section 18-508(3). All original applications shall also include a site plan, floor plan, and mechanical and plumbing plans with sufficient detail to show all sewers and appurtenances in the user's premises by size, location, and elevation. The industrial user shall also submit revised plans to the superintendent when alterations or additions to the user's premises affect said plans.

(3) Report requirements. The report required for all significant industrial users by section 18-508(2) or other provisions of this chapter shall contain in units and terms appropriate for evaluation the information listed in subparagraphs (a) through (e) below. Industrial users subject to national pretreatment standards shall submit to the superintendent a report which contains the information listed in subparagraphs (a) through (f) below within 180 days after the promulgation by the EPA of a National Pretreatment Standard under section 307(b) or (c) of the Act. This report is called the Baseline Monitoring Report (BMR). Industrial users who are unable to achieve a discharge limit set forth in section 6 without improved operation and maintenance procedures or pretreatment shall submit a report which contains the information listed in subparagraphs (a) through (g) of this section.

As specified, the report shall contain the following:

- (a) The name and address of the industrial user.
- (b) The location of the industrial user.
- (c) The nature, average rate of production, and standard industrial classification of the operation(s) carried out by the industrial user.
- (d) The average and maximum flow in gallons per day of discharge from the industrial user to the POTW.
- (e) The nature and concentration of pollutants in the discharge from each regulated process from the industrial user and identification of any applicable pretreatment standards and requirements. The concentration shall be reported as a maximum or average level as provided for in the applicable pretreatment standard and as approved by standard methods approved by the superintendent. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the superintendent for approval.

(f) A statement that has been reviewed by an authorized representative of the industrial user and certified by an environmental professional indicating if pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance procedures or additional pretreatment is required for the industrial user to achieve compliance.

(g) If additional pretreatment or operation and maintenance procedures will be required to meet the pretreatment standards, the report shall contain the shortest schedule by which the industrial user will provide the additional pretreatment. The completion date in the schedule shall be no later than the compliance date established for the applicable pretreatment standard.

For purposes of this paragraph when the context so indicates, the phrase "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed as a result of the industrial user's discharging any incompatible pollutant regulated by section 18-506. For purposes of this paragraph, the term "pollutant" shall include any pollutant identified in a national pretreatment standard or any incompatible pollutant identified in section 18-506.

(4) Incomplete applications. The superintendent will act only on applications that are accompanied by a report which lists all the information required in section 18-508(3). Industrial users who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of the deficiency and will be given 30 days to correct such. If the deficiency is not corrected within that period or with such extended time as allowed by the superintendent, the superintendent shall deny the application and notify the applicant in writing of such action.

(5) Evaluation of application. Upon receipt of completed applications, the superintendent and pretreatment coordinator shall review and evaluate the applications and shall propose such special permit conditions as the superintendent deems advisable. All wastewater discharge permits shall be expressly subject to all the provisions of this chapter and all other applicable laws and regulations. The superintendent may also propose that the wastewater discharge permit be subject to one or more special conditions in regard to any of the following:

- (a) Pretreatment requirements.
- (b) The average and maximum wastewater constituents.
- (c) Limits on rate and time of discharge for flow equalization.
- (d) Requirements for installation of inspection and sampling facilities.
- (e) Specifications for self-monitoring procedures.
- (f) Requirements for submission of technical and/or discharge reports.
- (g) Requirements for records maintenance.

(h) Average and maximum mass emission rates, or other appropriate limits when toxic pollutants are proposed or present in the industrial user's wastewater discharge.

(i) Other conditions deemed appropriate by the superintendent to ensure compliance with the chapter or other applicable law or regulation.

(j) A reasonable compliance schedule, as determined by the superintendent, up to one year in duration or such earlier date as may be required by other applicable law or regulation, whichever is sooner, to ensure the industrial user's compliance with pretreatment requirements or improved methods of operation and maintenance.

(k) Requirements for the installation of facilities to prevent and control accidental discharges or spills at the user's premises.

(l) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer.

(6) Notification of proposed permit conditions. (a) Upon completion of the evaluation, the superintendent shall notify the applicant of any special permit conditions proposed for inclusion in the wastewater discharge permit.

(b) The applicant shall have 45 days from and after the date of the superintendent's recommendations for special permit conditions to review same and file written objections with the superintendent in regard to any special permit conditions recommended. The superintendent may, but is not required, to schedule a meeting with applicant's authorized representative within 15 days following receipt of the applicant's objections, to attempt to resolve disputed issues concerning special permit conditions.

(c) If applicant files no objection to special permit conditions proposed by the superintendent or a subsequent agreement is reached concerning same, the superintendent shall issue a wastewater discharge permit to applicant with such special conditions incorporated therein.

(7) Board to establish permit conditions. (a) In the event that the superintendent cannot issue a permit pursuant to section 18-508(6) above, the superintendent shall submit to the board the proposed permit conditions and the applicant's written objections at the next regularly scheduled meeting of the board or at a specially convened meeting.

(b) The board shall schedule a hearing within 30 days following the meeting referred to above unless such time is extended for just cause shown to resolve any disputed matters relevant to such permit.

(c) The superintendent shall notify the applicant of the date, time, place, and purpose of the hearing scheduled by the board. The applicant and the superintendent shall have the right to participate in the hearing and present any relevant evidence to the board concerning

proposed special permit conditions or other matters being considered by the board.

(d) Following the hearing or additional hearings deemed necessary and advisable by the board, the board shall establish special permit conditions deemed advisable to ensure the applicant's compliance with this chapter or other applicable laws or regulations and direct the superintendent to issue a wastewater discharge permit to the applicant accordingly.

(8) Compliance schedule and reporting requirements. The following conditions shall apply to the schedules required by section 18-508(5) of this chapter:

(a) Schedule components. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment requirements for the industrial user to meet the applicable pretreatment standards.

(b) Schedule intervals. No such increment shall exceed 9 months.

(9) Duration of permits. Wastewater discharge permits shall be issued for a time period of 3 years. Permits issued to industrial users pursuant to section 18-508(7) shall be issued for a period of 1 year.

Industrial users subject to a national pretreatment standard shall apply for new permits on the effective date of such standards. The superintendent shall notify in writing any industrial user whom the superintendent has cause to believe is subject to a national pretreatment standard of the promulgation of such regulations, but any failure of the superintendent in this regard shall not relieve the user of the duty of complying with such standards. An industrial user must apply in writing for a renewal permit within a period of time not more than 90 days and not less than 30 days prior to expiration of the current permit.

Limitations or conditions of a permit are subject to modification or change as such changes become necessary due to changes in applicable water quality standards, changes in the city's NPDES permit, changes in section 18-506(10) or 18-506(11), changes in other applicable law or regulation, or for other just cause. Users will be notified of any proposed changes in their permit by the superintendent at least 30 days prior to the effective date of the change. Any change or new condition in the permit shall include a provision for a reasonable time schedule for compliance. The user may appeal the decision of the superintendent in regard to any changed permit conditions as otherwise provided for in this chapter.

(10) Transfer of permit. Wastewater discharge permits are issued to a specific industrial user for a specific operation. A wastewater discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation, unless as approved by the superintendent.

(11) Revocation of a permit. Any permit issued under the provisions of this chapter is subject to modification, suspension, or revocation in whole or in part during its term for cause, including but not limited to, the following:

- (a) Violation of any terms or conditions of the wastewater discharge permit or other applicable law or regulation.
- (b) Obtaining of a permit by misrepresentation or failure to disclose fully all relevant facts.
- (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (d) Refusal of reasonable access to the user's premise for the purpose of inspection and monitoring. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-509. Inspections, monitoring, and entry. (1) Inspections, monitoring, and entry. (a) When required to carry out the objective of this chapter, including but not limited to:

- (i) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition under this chapter;
- (ii) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition;
- (iii) any requirement established under this section.
- (b) The superintendent shall require any industrial user to:
 - (i) establish and maintain records;
 - (ii) make reports;
 - (iii) install, use, and maintain monitoring equipment or methods, including biological monitoring methods when appropriate;
 - (iv) sample effluent in accordance with these methods, at such locations and intervals and in such a manner as the superintendent shall prescribe;
 - (v) provide such other information as the superintendent may reasonably require.
- (c) Specific requirements under the provisions of paragraph (b) of this section shall be established by the superintendent, or the board as applicable, for each industrial user, and such requirements shall be included as a condition of the industrial user's wastewater discharge permit. The nature of any requirement under this provision shall depend on the nature of the user's discharge, the impact of the discharge upon

the POTW, the volume of water discharged, and the technical feasibility of an economic reasonableness of any such requirement.

(d) The superintendent or his authorized representative, employees of the State of Tennessee, and employees of the Environmental Protection Agency shall, upon presentation of credentials:

(i) Have a right of entry to, upon, or through any user's premises in which an effluent source is located or in which any records required to be maintained under this chapter are located.

(ii) Have access at reasonable times to and copy any records, inspect any monitoring equipment or method required of the user, and sample any discharge which the owner or operator of such source is required to sample.

(e) In the event any user denies authorized personnel the right of entry for inspection, sampling, inspecting and copying records, or verifying that a user is not discharging industrial wastes or performing other duties as shall be imposed upon the superintendent by this chapter, the superintendent shall seek a warrant or use such other legal procedures as advisable and reasonably necessary to perform the duties of this chapter.

(f) Any user failing or refusing to perform any duty imposed upon the user under the provisions of this section, or who denies the right to enter the user's premises for purposes of inspection, sampling, inspecting and copying records, or other such duties as may be imposed upon the user by this section, shall be deemed to have violated the conditions of the wastewater discharge permit and such permit shall be subject to modification, suspension, or revocation under the procedures established in this chapter. A user who does not have an industrial waste discharge permit and denies the right to inspect as described herein is subject to having the sewer service in question terminated by the superintendent.

(2) Reports. (a) Progress reports. No later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the superintendent, including as a minimum, whether it complied with the increment of progress to be met on such a date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the superintendent.

(b) 90 day compliance report. Within 90 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 industrial user subject to pretreatment standards and requirements shall submit to the superintendent a report

containing the information described in section 18-508(3), paragraphs (d) through (f).

(c) Self-monitoring reports. (i) All significant industrial users shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or in the industrial user's permit, a report indicating the nature and concentration of pollutants in the effluent which are limited by their permit. In addition, this report shall include a record of average and maximum daily flows. 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 submitted.

(ii) The superintendent, as applicable, may impose limitations on industrial users employing dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by paragraph (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(d) The reports required in this section shall contain the results of sampling and analysis of the discharge, including the flow and nature and concentration or production rates and mass limits where requested by the superintendent, as applicable, of pollutants contained therein which are limited by the applicable pretreatment standards or industrial permit. For industrial users subject to equivalent mass or concentration limits established by the superintendent as alternative standards, the report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measured operation), the report shall include the user's actual average production rate for the reporting period. The frequency of monitoring shall be prescribed in the applicable treatment standard.

(3) Monitoring facilities. (a) All significant industrial users shall install a monitoring station of a standard design or one satisfactory to the superintendent by June 30, 1992.

All users who propose to discharge or who in the judgement of the POTW could now or in the future discharge wastewater with constituents and characteristics different from that produced by a domestic premise may be required to install a monitoring facility.

(b) Installation. Required monitoring facilities shall be constructed, operated, and maintained at the user's expense. The purpose of the facility is to allow inspection, sampling, and flow

measurement of wastewater. If sampling or metering equipment is also required by the POTW, it shall be provided, installed, and operated at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside the building. The POTW 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.

(c) Access. If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for POTW, State of Tennessee, or EPA personnel. There shall be ample room in or near such a facility to allow accurate sampling and compositing of samples for analysis. The entire facility and any sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the user.

(d) The industrial user shall be required to design any necessary facility and to submit according to the permit compliance schedule an engineering report, including detailed design plans and operating procedures to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review the plans and other documents within 30 days and shall recommend any change deemed appropriate.

(e) Upon approval of plans and other documents, the industrial user shall secure all building, electrical, plumbing, and other permits required and proceed to construct any necessary facility and establish required operating procedures within the time provided in the industrial user's wastewater discharge permit.

(4) Sampling and analysis. (a) All collected samples must be of such nature that they provide a true and accurate representation of the industry's normal workday effluent quality.

(b) Chain-of-custody procedures, sample preservation techniques, and sample holding times recommended by the EPA shall be followed in all self-monitoring activities. Grab samples must be used for pH, cyanide, phenols, oil and grease, sulfide, and volatile organics. All other samples shall be 24-hour flow proportional composite samples.

(c) Monitoring shall be performed at the approved monitoring station on the effluent sewer. Location and design of the monitoring station shall be subject to the review and approval of the superintendent. Any change in monitoring location will be subject to the approval of the superintendent.

(d) All analyses shall be performed in accordance with procedures established by the EPA under the provisions of section 304(h) of the Act and contained in 40 CFR Part 136 and its amendments or with

any other test procedures approved by the EPA or the superintendent. Sampling shall be performed in accordance with the techniques approved by EPA or the superintendent.

(5) Dangerous discharge notification. (a) Telephone notification. Any person or user causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to human health and welfare or the environment, or which is likely to cause interference with the POTW, shall notify the superintendent immediately by telephone. In the absence of the superintendent, notification shall be given to the POTW employee then in charge of the treatment works. Such notification will not relieve the user from any expense, loss, liability, fines, or penalty which may be incurred as a consequence of the discharge.

(b) Written report. Within 5 days following such an occurrence, the user shall provide the superintendent with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons 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 other applicable law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of a contact 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.

(6) Slug reporting. The industrial user shall notify the POTW immediately by telephone of any slug loading, as defined by section 18-507(5) by the industrial user.

(7) Notification of hazardous waste discharge. (a) On or before January 20, 1991, the user shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of any discharge into the POTW of a substance which is a listed or characteristic waste under section 3001 of RCRA. Such notification must include a description of any such wastes discharged, specifying the volume and concentration of such wastes and the type of discharge (continuous, batch, or other), identifying the hazardous constituents contained in the listed wastes and estimating the volume of hazardous wastes expected to be discharged during the following 12 months. The notification must take place within 180 days after the July 24, 1990 promulgation date of the Domestic Sewage Study amendments to the Pretreatment Regulations. This requirement shall not apply to

pollutants already reported under the self-monitoring requirements of section 18-509(2).

(b) Dischargers are exempt from the requirements of this paragraph during a calendar month in which they generate no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.5(2), (f), (g), and (j). Generation of more than 15 kilograms of hazardous waste do not require additional notification, except for the acute hazardous wastes specified in 40 CFR 261.5(3), (f), (g), and (j).

(c) In the case of new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW of the discharge of such substance within 90 days of the effective date of such regulations, except for the exemption in paragraph (b) of this section.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of wastes generated to the degree it has determined to be economically practicable and that it has selected the method of treatment, storage, or disposal currently available which minimizes the present and future threat to human health and the environment.

(8) Notification of changed discharge. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes, for which the user has submitted initial notification under section 18-509(7).

(9) Provisions governing fraud and false statements. The reports required to be submitted under this section shall be subject to the provisions of 18 U.S.C. 1001 relating to fraud and false statements and the provisions of sections 309(c)(4) and (6) of the Act, as amended, governing false statements, representation, or certifications in reports required by the Act.

(10) Signatory requirements. The reports required by this section shall include a certification statement as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The reports shall be signed as follows:

(a) By a responsible corporate officer if the industrial user submitting the reports required by this section is a corporation. For the purpose of this paragraph, a responsible corporate officer is (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) By a general partner or proprietor if the industrial user submitting reports required by this section is a partnership or sole proprietorship, respectively.

(c) By a duly authorized representation of the individual designated in paragraph (a) of this section if:

(i) The authorization is made in writing by the responsible corporate officer.

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, well field superintendent, or a person in position of equivalent responsibility or with overall responsibility for environmental matters for the company.

(iii) The written authorization is submitted to the control authority.

(d) If an authorization under paragraph (c) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (c) of this section must be submitted to the superintendent prior to or in conjunction with any reports to be signed by an authorized representative.

(11) Reporting of violation. If sampling performed by an industrial user indicates a violation, the user shall notify the superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within 30 days after becoming aware of the violation. The industrial user is not required to resample if one of the following criteria is met:

(a) The POTW performs sampling at the industrial user at a frequency of at least once per month.

(b) The POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(12) Reporting of all monitoring. If an industrial user subject to the reporting requirements in section 18-508(3) of this chapter monitors any pollutant more frequently than required by the superintendent using approved procedures prescribed in this chapter, the results of this monitoring shall be included in the report.

(13) Notice of bypass. (a) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the superintendent.

(b) An industrial user shall submit oral notice to the superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times; and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(14) 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.

(e) The results of the analyses.

(15) Retention period. Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make these records available for inspection and copying by the superintendent, TDEC Director of the Division of Water Pollution Control, and EPA. The retention period shall be extended during the course of any unresolved litigation regarding the user or upon request from the superintendent, the Director, or the EPA.

(16) Confidential information. Any records, reports, or information obtained under this section shall

(a) in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or permit condition, and

(b) be available to the public to the extent provided by 40 CFR, part 2.302. If, upon showing to the superintendent by any person that, if made public, records, reports, information, or particular parts (other than effluent data) to which the superintendent has access under this section, would divulge methods or processes entitled to protection as trade secrets of such person, the superintendent shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of this section. Such record, report, or information may be disclosed to officers, employees, or authorized representatives of the United States or the State of Tennessee concerned with carrying out the provisions of the Act or when relevant in any proceeding under this section or other applicable laws. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-510. Enforcement. (1) Hearings. (a) Any hearing or re-hearing brought before the mayor and board of aldermen shall be conducted in accordance with following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this section, the superintendent shall give the petitioner 10 days written notice of the time and place of the hearing.

(ii) The hearing provided may be conducted by the mayor and board of alderman at a regular or special meeting. A quorum of the board must be present at the regular or special meeting in order to conduct the hearing.

(iii) A verbatim record of the proceedings of the hearings shall be made and filed with the board in conjunction with the findings of fact and conclusions of law made pursuant to section 18-510(1)(a)(vi). The transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the superintendent to cover preparation fees.

(iv) In connection with the hearing, the chairperson of the board shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In the case of refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Dyer County shall have the jurisdiction upon the application of the superintendent to issue an order requiring such person to appear and testify or produce evidence as the case may

require. Failure to obey such an order of the court is punishable by the court as contempt.

(v) On the basis of the evidence produced at the hearing, the board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than 30 days following the close of the hearing by the person or persons designated by the chairperson.

(vi) The decision of the board shall become final and binding on all parties unless appealed to the courts as provided in section 18-510(1)(b).

(vii) Any person to whom an emergency order is directed shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible, but in no case shall such a hearing be held later than 3 days from the receipt of such a petition by the board.

(viii) Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairperson to rule on such matters as would require a ruling by the court under said rules.

(ix) The superintendent shall first call witnesses, which shall be followed by witnesses called by the other party. Rebuttal witnesses shall be called in the same order. The chairperson shall rule on any evidentiary questions arising during such hearing and shall make other rulings necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the superintendent, his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(x) Any person aggrieved by an order or determination of the superintendent where an appeal is not otherwise provided by this section may appeal said order or determination to be reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the superintendent, and said notice shall set forth with particularity the action or inaction of the superintendent complained of and the relief being sought by the person filing said appeal. A special meeting of the board may be called by the chairperson upon the filing of such an appeal, and the board may, at member's discretion, suspend the operation of the

order or determination of the superintendent on which is based the appeal until such time as the board has acted upon the appeal.

(xi) The vice chairperson or the chairperson pro tem shall possess all the authority delegated to the chairperson by this section when acting in their absence or place.

(b) An appeal may be taken from any final order or other final determination of the superintendent or board by any party who is or may be adversely affected thereby to the chancery court pursuant to the common law writ of certiorari set in Tennessee Code Annotated (T.C.A.) 27-8-101, within 60 days from the date such order or determination is made.

(2) Civil penalty. (a) (i) Any person or user who does any of the following acts or omissions shall be subject to a civil penalty of up to \$10,000 per day for each day during which the act or omission continues or occurs:

(A) Violates any effluent standard or limitation imposed by a pretreatment program.

(B) Violates the terms or conditions of a permit issued pursuant to a pretreatment program.

(C) Fails to complete a filing requirement of a pretreatment program.

(D) Fails to allow or perform an entry, inspection, monitoring, or reporting requirement of a pretreatment program.

(E) Fails to pay user or cost recovery charges imposed by a pretreatment program.

(F) Violates a final determination or order of the board.

(ii) Any civil penalty shall be assessed in the following manner:

(A) The superintendent may issue an assessment against any person or user responsible for the violation.

(B) Any person or user against whom an assessment has been issued may secure a review of such assessment by filing with the superintendent a written petition setting forth the grounds and reasons for his objections and asking for a hearing on the matter involved before the mayor and board of aldermen. If a petition for review of the assessment is not filed within 30 days of the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final.

(C) When any assessment becomes final because of a person's failure to appeal the superintendent's

assessment, the superintendent may apply to the appropriate court for a judgement and seek execution of such judgement and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgement in the amount of the assessment. Civil penalties will be assessed based on the following criteria:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity.

(2) Damages to the POTW, including compensation for the damage or destruction of the facilities of the POTW, which also includes any penalties, costs, and attorney's fees incurred by the POTW as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damage.

(3) Cause of the discharge or violation.

(4) The severity of the discharge and its effect upon the facilities of the POTW and upon the quality and quantity of the receiving waters.

(5) Effectiveness of action taken by the violator.

(6) The technical and economic feasibility of reducing or eliminating the discharge.

(7) The economic benefit gained by the violator.

(D) The superintendent may institute proceedings for assessment in the name of the City of Newbern in the chancery court of the county in which all or part of the violation occurred.

(iii) The mayor and board may establish by regulation a schedule of the amount of civil penalty which can be assessed by the superintendent for certain specific violations or categories of violations.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of Environment and Conservation for violations of T.C.A. 69-3-115(a)(a)(F). Provided, however, the sum of the penalties imposed by this section and by 69-3-115(a) shall not exceed \$10,000 per day for each day during which the act or omission continues to occur.

(3) Assessment of noncompliance. (a) The superintendent may assess the liability of any polluter or violator for damages to the pretreatment agency resulting from any person(s) or user(s) pollution or violation,

failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program.

(b) If an appeal from such assessment is not made to the superintendent by the polluter or violator within 30 days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or any other sections of the chapter, in removing, correcting, and terminating any pollution, and also compensation for actual damages caused by the violation to the POTW. The superintendent shall assess the expenses and damages incurred by the POTW to clear the obstruction, repair damage to the POTW, and otherwise rectify any impairment caused by the violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within 30 days, the superintendent shall bill the person responsible for the damage for reimbursement of all expenses and damages suffered by the POTW. If the person responsible refuses to pay, the superintendent may apply to the appropriate court for a judgement and seek execution on such judgement. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgement in the amount of assessment.

(4) Judicial proceedings and relief. The superintendent may initiate proceedings in the chancery court of the county in which the activities occurred against any person or user who is alleged to have violated or is about to violate the pretreatment program, its industrial user permit, any section of this chapter, or any order of the superintendent and/or board. In such action, the superintendent may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(5) Administrative enforcement remedies. (a) Notification of violation. When the superintendent finds that any user has violated or is violating this section, or a wastewater permit or order issued hereunder, the superintendent or his agent may serve upon the user a written notice of violation (NOV). Within 10 days of receipt of the NOV, 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 superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV.

(b) Consent orders. The superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time frame also

specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraph (d) below.

(c) Show-cause hearing. The superintendent may order any user which causes or contributes to a violation of this chapter, its wastewater permit, or any order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user 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 10 days prior to the hearing. Such notice may be served on any principle executive, general partner, or corporate officer. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

(d) Compliance order. When the superintendent finds that a user has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements deemed reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(e) Cease and desist orders. When the superintendent finds that a user has violated or continues to violate this chapter or any permit or order issued hereunder, the superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to do one of the following:

(i) Comply with the order.

(ii) Take the appropriate remedial or preventive action needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(f) Emergency termination of service. When the superintendent finds that an emergency exists in which immediate action is required to protect public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or the facilities of the POTW, the superintendent may, without prior notice, issue an order reciting the existence of such an emergency and requiring that certain action(s) be taken as the superintendent deems necessary to meet the emergency.

If the violator fails to respond or is unable to respond to the superintendent's order, the superintendent may take such emergency action as deemed necessary or contract with a qualified person to carry

out the emergency measures. The superintendent may assess the person(s) responsible for the emergency condition for actual costs incurred by the superintendent in meeting the emergency.

If the emergency action adversely affects the user, the superintendent shall provide the user an opportunity for a hearing as soon as possible thereafter to consider restoration of service upon abatement of the condition or other reasonable conditions. Following the hearing, the superintendent may take any such authorized should the proof warrant such action.

(6) Disposition of damage payments and penalties. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the city and allocated and appropriated to the sewer system for the administration of its pretreatment program.

(7) Vandalism. Any and all damages incurred by the POTW due to acts of vandalism will be prosecuted to the full extent of the law. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-511. Wastewater volume determination. (1) Metered water supply. Charges and fees related to the volume of wastewater discharged to the POTW shall be based upon the user's total water consumption from all water supply sources. The total amount of water used shall be determined from public meters installed and maintained by the city and/or private meters installed and maintained at the expense of the user and approved by the city.

(2) Wastewater volume. When charges and fees based upon water usage and/or discharge and where, in the opinion of the POTW, a significant portion of the water received from any metered source does not flow into the sewer because of the principle activity of the user or removal by other means, the charges and fees will be applied only against the volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water must be provided by the user and approved by the city.

The users may install a meter of a type and at a location approved by the city to measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be maintained at the expense of the user and be tested for accuracy at the expense of the user when deemed necessary by the superintendent.

(3) Estimated wastewater volume. For users where, in the opinion of the city, it is unnecessary or impractical to install meters, charges and fees may be based upon an estimate of the volume to be discharged. The estimate shall be prepared by the user and approved by the superintendent or his representative. The number of fixtures, seating capacity, population equivalent, annual production of goods and services, and other such factors as deemed rational by the POTW shall be used to estimate the wastewater discharge volume.

(4) Domestic flows. For the separate determination of the volumes of domestic and process flows from users for the purposes of calculating charges based on process wastewater flows alone, users shall install a meter of a type and at a location approved by the POTW. For users where, in the opinion of the POTW, it is unnecessary or impractical to install such a meter, the volume of the domestic and process wastewater shall be based upon an estimate prepared by the user and approved by the POTW. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-512. Wastewater charges and fees. (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the city which will enable it to comply with the revenue requirements of the Federal Water Pollution Control Act Amendments. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program in order that sufficient revenues are collected to defray the POTW's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for equipment replacement, capital outlay, bond service costs, capital improvements, and depreciation.

(2) Types of charges and fees. The charges and fees established in the city's schedule of charges and fees may include, but not be limited to, the following:

- Sewer service line charges
- Tap fees
- User charges
- Fees for monitoring requested by the user
- Fees for permit applications
- Fees based on wastewater characteristics and constituents
- Fees for discharge of holding tank wastes
- Inspection fees
- Industrial user permit fees
- Pretreatment program operating fees

(3) Determination of charges. Charges and fees shall be based upon a minimum basic charge for each premise, computed on the basis of normal wastewater from a domestic premise with the following characteristics:

BOD ₅	-	300 mg/l
COD	-	600 mg/l
Suspended Solids	-	300 mg/l
Ammonia-Nitrogen	-	30 mg/l
Oil and Grease	-	100 mg/l

The charges and fees for all users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that user as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, suspended solids, oil and grease, and flow volume.

(4) User charges. Each user of the POTW's sewer system will be levied a charge for payment of indebtedness of the city and for the user's proportionate share of the operation, maintenance, and replacement costs of the sewer system. A surcharge may be levied against those users with wastewater that exceeds the strength of normal wastewater as defined in this chapter.

The user charge will be computed from a base charge plus applicable surcharge. The base charge will be the user's proportionate share of the costs of operation, maintenance, and replacement for handling its periodic volume of normal wastewater plus the user's share of any bond amortization costs of the city.

(a) Operation, maintenance, and replacement (OM&R) user charges. Each user's share of OM&R costs will be computed by the following formula:

$$C_u = \frac{C_t}{V_t}(V_u)$$

Where:

C_u = User's charge for OM&R per unit time.

C_t = Total OM&R costs per unit of time, less costs recovered from surcharges.

V_t = Total volume contribution from all users per unit time.

V_u = Volume contribution from individual user per unit time.

(b) Bonded indebtedness charges. Each user's share of bonded indebtedness costs will be based on a schedule which reflects the user's volumetric and/or waste strength contribution to the system.

(c) User surcharges. The surcharge will be the user's proportionate share of the OM&R costs for handling its periodic volume

of wastewater which exceeds the strength of BOD₅, suspended solids, and/or other pollutants in normal wastewater as listed in section 18-512(3) of this chapter. The amount of surcharge will be determined by the following formula:

$$C_s = (B_c \times B + S_c \times S + P_c \times P) 8.34 V_u$$

Where:

- C_s = Surcharge for wastewater exceeding the strength of normal wastewater expressed in dollars per billing period.
- B_c = OM&R cost for treatment of a unit of BOD₅ expressed in dollars per pound.
- B = Concentration of BOD₅ from a user above the base level of 300 mg/l expressed in mg/l.
- S_c = OM&R costs for treatment of a unit of SS expressed in dollars per pound.
- S = Concentration of SS from a user above the base level of 300 mg/l, expressed in mg/l.
- P_c = OM&R costs for treatment of a unit of any pollutant which the POTW is committed to treat by virtue of an NPDES permit or other regulatory requirement, expressed in dollars per pound.
- P = Concentration of any pollutant from a user above a base level. Base levels for pollutants subject to surcharge will be established by the superintendent.
- V_u = Volume contribution of a user per billing period in million gallons based on a 24 hour average for a billing period.

The values of parameters used to determine user charges may vary from time to time. Therefore, the POTW is authorized to modify any parameter or value as often as is necessary. Review of all parameters and values shall be undertaken at least annually.

(d) Pretreatment program charges. Industrial users may be required to pay a separate pretreatment program charge. This charge will be based on the user's proportional share of the costs of administering the POTW pretreatment program, which includes costs incurred by the POTW for verification monitoring, analysis, and reporting. Each user's share of the pretreatment program costs will be computed by the following formula:

$$C_u = \frac{C_t}{V_t} (V_u)$$

Where:

- C_u = User's charge for POTW pretreatment program per unit time.
- C_t = Total POTW pretreatment program costs per unit time.
- V_t = Total volume contribution of permitted industrial users per unit of time.
- V_u = Volume contribution from a permitted industrial user per unit of time.

(5) Review of OM&R charges. The POTW shall review at least annually the wastewater contribution by users, the total costs of OM&R of the treatment works, and its approved user charge system. The POTW shall revise the user charges to accomplish the following:

- Maintain the proportionate distribution of OM&R costs among users or classes of users.
- Generate sufficient revenue to pay the total OM&R costs of the treatment works.
- Apply any excess revenues collected to the costs of OM&R for the next year and adjust rates accordingly.

(6) Charges for extraneous flows. The costs of operation and maintenance for all flow not directly attributable to users, e.g., infiltration/inflow, will be distributed proportionally among all users of the treatment works.

(7) Notification. Each user will be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the user charges which are attributable to OM&R charges.

(8) Billing. Wastewater charges imposed by this chapter shall be added to, included in, and collected with the monthly water service bills, and shall be due and payable monthly. This shall not affect the right of the POTW to collect wastewater charges from customers who utilize private or public water supplies from other utilities and who discharge wastewater to the POTW.

(9) Collection. Wastewater charges and fees imposed by this chapter shall be collected by the city in a manner established by the superintendent.

(10) Delinquent accounts. The city may discontinue water service to any customer who has a delinquent wastewater charge until such wastewater charge has been paid, except as provided by state or local law.

(11) Adjustments. The city shall make appropriate adjustments in the wastewater charge of sewer customers for over or under registration of utility meters, leaks, or other recognized adjustments. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-513. Administration. (1) Board of aldermen and mayor. In addition to any other duty or responsibility otherwise conferred upon the board by this chapter, the mayor and board of aldermen shall have the duty and power as follows:

(a) To recommend amendments or modifications to the provisions of this chapter.

(b) To grant exceptions pursuant to the provisions of sections 18-507 -- 18-508, and to determine such issues of law and fact as are necessary to perform this duty.

(c) To hold hearings upon appeals from orders of actions of the superintendent as may be provided under the provisions of this chapter.

(d) To hold hearings related to the suspension, revocation, or modification of a wastewater discharge permit and issue appropriate orders relating hereto.

(e) To hold other hearings that may be required in the administration of this chapter and to make determinations and issue orders necessary to effectuate the purposes of this chapter.

(f) To request assistance from any officer, agent, or employee of the city and to obtain any necessary information or other assistance.

(g) The board, acting through its chairperson, shall have the power to issue subpoenas requiring attendance, the testimony of witnesses, and the production of documentary evidence relevant to any matter properly heard by the board.

(h) The chairperson shall be authorized to administer oaths to people giving testimony.

(2) Superintendent. (a) Superintendent and staff. The superintendent and his/her staff shall be responsible for the administration of all parts of this section.

(b) Authority of superintendent. The superintendent shall have the authority to enforce all sections of this chapter. He/she shall be responsible and have the authority to maintain and operate the various treatment works, sewer lines, pump stations, and other appurtenances of the POTW. The superintendent shall be responsible for preparation of operating budgets subject to the normal budgetary processes of the city.

(c) Records. The superintendent shall keep in his office or at an appropriate storage facility all applications required under this chapter a complete record thereof, including a record of all wastewater discharge permits.

(d) Notice of national pretreatment standard. The superintendent shall notify users identified in 40 CFR, Part 403.8(f)(2) of any applicable pretreatment standards or other applicable requirements promulgated by the EPA under the provisions of section 204(b) of the Act (33 U.S.C. 1284), section 405 of the Act (33 U.S.C. 1345), or under the provisions of sections 3001, 3304, or 4004 of the Solid Waste Disposal Act. Failure of the superintendent to notify users shall not relieve the users from the responsibility of complying with these regulations.

(e) Public participation notice. The superintendent shall comply with the public participation requirements of 40 CFR, Part 25 in the enforcement of National Pretreatment Standards. The superintendent shall at least annually provide public notification in the largest local newspaper of all significant industrial users which, during the previous 12 months, significantly violated applicable pretreatment standards or other pretreatment requirements. For the purposes of this provision, a significant industrial user is in significant violation if its violations meet one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(ii) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements taken during a 6-month period equal or exceed the product of the daily average maximum limit or average limit times the applicable TRC (TRC=1.4 for BOD, TSS, and oil and grease; and 1.2 for all other pollutants except pH).

(iii) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the superintendent believes has caused, alone or in combination with other discharges,

interference, or pass-through, including endangering the health of the POTW personnel and the general public.

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health and welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(v) Violation by 90 days or more after the schedule date of a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within 30 days of the due date.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations which the superintendent considers to be significant.

(f) Regulations and standards. The superintendent may promulgate rules, regulations, and design criteria not inconsistent with this chapter and have them printed for distribution. These rules may include requirements for performing wastewater characterizations, analysis, and other measurements by standard methods approved by the superintendent.

(g) Sewer credits. The superintendent shall approve secondary meters and determine other kinds of sewer use charge credits.

(h) Approves new construction. The superintendent shall give approval in acceptance of newly constructed sanitary sewer lines, pump stations, and other appurtenances. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-514. Validity. (1) Conflict. All ordinances or parts of ordinances inconsistent with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.

(2) Savings clause. If any provision, paragraph, word, section, or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force. (as added by Ord. #96-7, Oct. 1996)

CHAPTER 6

USER CHARGE SYSTEM

SECTION

18-601. Charges and fees.

18-601. Charges and fees. (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the Town of Newbern which will enable it to comply with the revenue requirements of Section 204 of the Clean Water Act. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program to ensure that sufficient revenues are collected to defray the cost of operating and maintaining, including replacement, adequate wastewater collection and treatment systems. Specific charges and fees shall be adopted by a separate ordinance, this section describes the procedure to be used in calculating the charges and fees. Additional charges and fees to recover funds for capital outlay, bond service costs, and capital improvements may be assessed by the Town of Newbern. These charges and fees shall be recovered through the user classification established below.

(2) Classification of user. All users shall be classified by the superintendent either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics.

(3) Types of charges and sewer fees. The charges and fees as established in treatment works schedule of charges and fees, may include, but not be limited to:

- (a) User classification charges;
- (b) Fees for monitoring requested by user;
- (c) Fees for permit applications;
- (d) Appeal fees;
- (e) Charges and fees based on wastewater constituents and characteristics;
- (f) Fees for use of garbage grinders;
- (g) Fees for holding tank wastes.

(4) Basis of determination of charges. Charges and fees may be based upon a minimum basic charge for each premise, computed on the basis of "normal wastewater" from a domestic premise with the following characteristics:

BOD ₅	300 milligrams per liter
COD	600 milligrams per liter
TKN	60 milligrams per liter
NH ₃ -N	30 milligrams per liter

Suspended Solids	300 milligrams per liter
Fats, Oil and Grease	100 milligrams per liter

The charges and fees for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, SS, NH₃ as N, chlorine demand, and volume.

(5) User charges. Each user shall be levied a charge for payment of bonded indebtedness of the treatment system and for that user's proportionate share of the operations and maintenance costs of the system. A surcharge will be levied against those users with wastewater that exceeds the strength of "normal wastewater."

The user charge will be computed from a base charge plus a surcharge. The base charge will be the user's proportionate share of the costs of operation and maintenance (O&M) including replacement for handling its periodic volume of "normal wastewater."

(a) Operation and maintenance user charges: Each user's share of operation and maintenance costs will be computed by the following formula:

$$C_u = \frac{C_t \times (V_u)}{V_t}$$

Where: C_u = User's charge for O & M per unit of time.
 C_t = Total O & M cost per unit of time.
 V_t = Total volume contribution from all users per unit of time.
 V_u = Volume contribution from a user per unit of time.

Operation and maintenance charges may be established on a percentage of water use charge only in the event that water use charges are based on a constant cost per unit of consumption.

(b) Surcharges: The surcharge will be the user's proportionate share of the O & M costs for handling its periodic volume of wastewater which exceeds the strength of BOD₅, suspended solids, and/or other elements in "normal wastewater" including "toxic wastes." The amount of the surcharge shall be determined by the following formula:

$$C_s = ((B_c \times B) + (S_c \times S) + (P_c \times P))V_u$$

- Where:
- Cs = Surcharge for wastewaters exceeding the strength or "normal wastewater" expressed in dollars per billing period.
 - Bc = O & M cost for treatment of a unit of BOD₅ expressed in dollars per pound.
 - B = Concentration of BOD₅ from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.
 - Sc = O & M costs for treatment of a unit of suspended solids expressed in dollars per pound.
 - S = Concentration of suspended solids from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.
 - Pc = O & M cost for treatment of a unit of any pollutant which the publicly-owned treatment works is committed to treat by virtue of an NPDES permit or other regulatory requirement expressed in dollars per pound.
 - P = Concentration of any pollutant from a user above base level. Base levels for pollutants subject to surcharges will be established by the superintendent.
 - Vu = Volume contribution of a user per billing period. (Expressed in thousands of gallons).

The values of parameters used to determine user charges may vary from time to time. Therefore, the superintendent is authorized to modify any parameter or value as often as necessary. Review of all parameters and values shall be undertaken whenever necessary; but in no case less frequently than annually.

(6) Notification. Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(7) Biennial review of operation and maintenance charges. The Town of Newbern shall review not less often than every two (2) years the waste water contribution of users and user classes, the total costs of operation and maintenance of the treatment works and its approved user charge system. The town shall revise the charges for users or user classes to accomplish the following:

- (a) Maintain the proportionate distribution of operation and maintenance costs among users and user classes as required herein;
- (b) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and
- (c) Apply excess revenues collected from a class of users to the

costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. (Ord. #88-1, March 1988)

CHAPTER 7

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-701. Definitions.
- 18-702. Standards.
- 18-703. Construction, operation, and supervision.
- 18-704. Inspections required.
- 18-705. Right of entry for inspections.
- 18-706. Correction of existing violations.
- 18-707. Use of protective devices.
- 18-708. Installation criteria.
- 18-709. Unpotable water to be labeled.
- 18-710. Statement required.
- 18-711. Violations.
- 18-712. Grievances and hearings.

18-701. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Cross-connection." Any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices through which, or because of which, backflow could occur are considered to be cross-connections.

(2) "Public water system." The Newbern Water Department, which furnishes water to the public for general use and which is recognized as the public water system by the Tennessee Department of Environment and Conservation.

(3) "Department." The Newbern Water Department.

(4) "Potable water." Water which meets the criteria of the Tennessee Department of Environment and Conservation and the Environmental Protection Agency for Human Consumption.

(5) "Backflow." The reversal of the intended direction of flow in a piping system.

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(6) "Backsiphonage." The flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Auxiliary intake." Any water supply, on or available to a premises, other than that directly supplied by the public water system.

(8) "By-pass." Any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(9) "Air gap." A vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air gap separation must be at least twice the inside diameter of the supply line, but not less than two (2") inches. Where a discharge line serves as receiver, the air gap separation must be at least twice the diameter of the discharge line, but not less than two (2") inches.

(10) "Reduced pressure principle backflow prevention device". An assembly consisting of two independently operating approved check valves with an automatically operating differential relief valve located between the two check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

(11) "Double check valve assembly." An assembly of two independently operating spring loaded check valves with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each check valve.

(12) "Double check detector assembly." An assembly of two independently operating spring loaded check valves with a water meter (protected by another check valve or a reduced pressure backflow prevention device, depending upon degree of hazard) connected across the check valves, and with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each of the assembly.

(13) "Atmospheric vacuum breaker." A device which prevents backsiphonage by creating an atmospheric vent when it is either a negative pressure or subatmospheric pressure in the water system.

(14) "Pressure vacuum breaker." An assembly consisting of a device containing one or two independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief value.

(15) "Approved." The device or method is accepted by the Tennessee Department of Environment and Conservation and the Superintendent as meeting specifications suitable for the intended purpose.

(16) "Superintendent." The Superintendent of the Newbern Water Department or his authorized deputy, agent or representative.

(17) "Fire protection systems." (a) Class 1 shall be those with direct connections from the public water mains only; no pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

(b) Class 2 shall be the same as Class 1 except that booster pumps may be installed in the connections from the street mains.

(c) Class 3 shall be those with direct connection from public water supply mains, and having storage tanks filled from the public water system, with the water maintained in potable condition.

(d) Class 4 shall be those with direct connection from the public water mains having an auxiliary water supply dedicated to fire protection and available to the premises.

(e) Class 5 shall be those with direct connection from the public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or from rivers, ponds, wells, or industrial water systems; or where antifreeze or other additives are used.

(f) Class 6 shall be those with combined industrial and fire protective systems supplied from the public water mains only, with or without gravity storage or pump suction tanks. (1982 Code, § 8-401, as replaced by Ord. #97-4, June 1997)

18-702. Standards. The water department of the City of Newbern is to comply with Sections 68-221-101 through 68-221-109 of the Tennessee Code Annotated, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective on-going program to control these undesirable water uses. (1982 Code, § 8-401, as replaced by Ord. #97-4, June 1997)

18-703. 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 direction of the superintendent of the Newbern Water Department.

If, in the judgment of the superintendent or his designated agent, an approved backflow prevention device is required at the public water service connection to the customer's premises to protect the potable water supply, the

superintendent shall complete the installation and maintenance of said device at the owner's expense.

For new installations, the department shall inspect the site and/or review plans in order to determine the type of backflow prevention device, if any, that will be required, and notify the owners in writing of the required device. All required devices must be installed and operable prior to initiation of water service. (1982 Code, § 8-403, as replaced by Ord. #97-4, June 1997)

18-704. Inspections required. The superintendent shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspection based on potential health hazards involved shall be established by the superintendent in accordance with guidelines acceptable to Tennessee Department of Environment and Conservation. The expense of such inspection shall be borne by the owner or occupant of the property. (1982 Code, § 8-404, as replaced by Ord. #97-4, June 1997)

18-705. Right of entry for inspections. The superintendent or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to Newbern Water Department for the purpose of inspecting the piping system therein for cross-connections, auxiliary intakes, bypasses, or interconnections, or for the testing of backflow prevention devices. On request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (1982 Code, § 8-405, as replaced by Ord. #97-4, June 1997)

18-706. Correction of existing violations. Any person found to have cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the superintendent, but in no case shall the time for correction exceed 90 days.

Where cross-connections, auxiliary intakes, bypasses, or interconnections are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the superintendent of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, section

68-221-107, within the time limits set by the City of Newbern, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the superintendent shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person. (1982 Code, § 8-406, as replaced by Ord. #97-4, June 1997)

18-707. Use of protective devices. Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) The owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the director or his designated representative that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water system;
- (3) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;
- (4) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;
- (5) There is a likelihood that protective measures may be subverted, altered, or disconnected; or
- (6) The plumbing from a private well enters the building served by the public water supply,

the superintendent shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originated in the customer's premises is contained therein. The protective device shall be of the type approved by the Tennessee Department of Environment and Conservation and the superintendent as to manufacture, model, size and application. 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 and with the installation criteria set forth in 18-708 below. The installation shall be at the expense of the owner or occupant of the premises.

Applications requiring backflow prevention devices include, but are not limited to, service and/or fire flow connections for most commercial and educational buildings, construction sites, all industrial, institutional, and medical facilities, all fountains, lawn irrigation systems, swimming pools, softeners and other point of use treatment systems, and on all fire hydrant connections other than by the fire department in combating fires.

- (1) Class 1, Class 2, and Class 3 fire protection systems generally shall require a double check detector assembly, except a reduced pressure backflow prevention device shall be required where:

(a) Underground fire sprinkler pipelines are parallel to and within ten feet horizontally of pipelines carrying sewage or significantly toxic wastes;

(b) Premises have unusually complex piping systems;

(c) Pumpers connection to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(2) Class 4, Class 5, and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(3) Wherever the fire sprinkler system piping is not an acceptable potable water system material, or chemicals such as liquid foam concentrates are used, a reduced pressure backflow prevention device shall be required.

Plumbing for commercial and educational buildings wherein backflow prevention devices are not immediately required shall be designed to accommodate such devices in conformance with standards for such devices, including the required drains.

Additionally, the superintendent may require internal and/or additional backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

Personnel of the Newbern Water Department shall have the right to inspect and test the device on an annual basis or whenever deemed necessary by the superintendent. The tester shall be certified in accordance with the criteria as set forth by the Tennessee Department of Environment and Conservation. 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. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent shall notify, in writing, the occupant of the premises of plans to interrupt water service and arrange for a mutually acceptable time to test or repair the device. In such cases, the superintendent may require the installation of a duplicate unit. The superintendent shall require the occupant of the premises to make all repairs indicated promptly, and to keep any protective device working properly. 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 superintendent. The failure to maintain a backflow prevention device in proper working order shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing, or altering of a protective device or the installation thereof so as to render a device 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 superintendent. (1982 Code, § 8-407, as replaced by Ord. #97-4, June 1997)

18-708. Installation criteria. Minimum acceptable criteria for the installation of reduced pressure zone type backflow prevention devices, double check valve assemblies, pressure vacuum breakers, or other devices requiring regular inspection and testing shall include the following:

(1) All required devices must be installed by a person certified by the Tennessee Department of Environment and Conservation, Division of Drinking Water, or its successor. Evidence of current certification at the time of installation will be required.

(2) All devices shall be installed in accordance with the Tennessee Department of Environment and Conservation instructions, and shall possess all test cocks and fittings required for testing the device. All fittings shall permit direct connection to department test devices.

(3) The entire device including test cocks and valves shall be easily accessible for testing and repair.

(4) Reduced Pressure Backflow Prevention devices shall be located a minimum of twelve (12") inches plus the nominal diameter of the device above the floor surface. Maximum height above the floor surface shall not exceed sixty (60") inches.

(5) Clearance of device from wall surfaces or other obstructions shall be a minimum of six (6") inches.

(6) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive, sticky, greasy, abrasive, or other damaging environment.

(7) Devices shall be positioned where discharge from relief port will not create undesirable conditions.

(8) An approved airgap shall separate the relief port from any drainage system.

(9) An approved strainer, fitted with a test cock, shall be installed immediately upstream of the backflow device or shut-off valve before strainer.

(10) Devices shall be located in an area free from submergence or flood potential.

(11) A gravity drainage system is required on all installations. Generally, below ground installations will not be permitted. On certain slopes where installations below ground level may be permitted, a single or multiple gravity drain system may be used provided that the single drain line is at least four (4) times the area of the relief port or that the multiple drain lines are at least two and one-half (2 1/2) times the area. (1982 Code, § 8-408, as replaced by Ord. #97-4, June 1997)

18-709. Unpotable water to be labeled. The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable

system must be labeled in a conspicuous manner as: WATER UNSAFE FOR DRINKING.

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color coding of pipelines in accordance with Occupational Safety and Health Act guidelines may be required in locations where, in the judgment of the superintendent, such color coding is necessary to identify and protect the potable water supply. (1982 Code, § 8-409, as replaced by Ord. #97-4, June 1997)

18-710. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent 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. (1982 Code, § 8-410, as replaced by Ord. #97-4, June 1997)

18-711. Violations. The requirements contained herein shall apply to all premises served by the City of Newbern Water Department whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the system 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 for consumption, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the City of Newbern corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter may be deemed guilty of a misdemeanor, and subject to the maximum fine provided for under the City of Newbern Municipal Code. Each day of continued violation after conviction shall constitute a separate offense.

Independent of and in addition to fines and penalties, the superintendent may discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass or interconnection in violation of this chapter, and service shall not be restored until such cross-connection, auxiliary intake, by-pass or interconnection has been discontinued. (As added by Ord. #97-4, June 1997)

18-712. Grievances and hearings. Any person aggrieved by the action of the superintendent or other personnel of the City of Newbern Water Department in the enforcement of this chapter is entitled to a hearing before the board of

mayor and aldermen. Any hearing or re-hearing brought before the board of mayor and aldermen shall be conducted in accordance with the following:

(1) Upon receipt of a written petition from the alleged violator pursuant to this section, the superintendent shall give the petitioner (10) days written notice of the time and place of the hearing.

(2) The hearing provided may be conducted by the board of mayor and aldermen at a regular or special meeting. A quorum of the board must be present at the regular or special meeting in order to conduct the hearing.

(3) A verbatim record of the proceedings of the hearings shall be made and filed with the board in conjunction with the board's findings of fact and conclusions of law made on the basis of the record. The transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the superintendent to cover preparation fees.

(4) In connection with the hearing, the Mayor or, in his absence, the chairperson of the board shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In the case of refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Dyer County shall have the jurisdiction upon the application of the Superintendent to issue an order requiring such person to appear and testify or produce evidence as the case may require. Failure to obey such an order of the court is punishable by the court as contempt.

(5) On the basis of the evidence produced at the hearing, the board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of this chapter and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the mayor.

(6) The decision of the Board shall become final and binding on all parties unless appealed to the courts as provided hereinafter.

(7) Any person to whom an emergency order is directed shall comply therewith immediately, but on petition to the Board shall be afforded a hearing as soon as possible, but in no case shall such a hearing be held later than 3 days from the receipt of such a petition by the board.

(8) Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the mayor to rule on such matters as would require a ruling by the court under said rules.

(9) The Superintendent shall first call witnesses, which shall be followed by witnesses called by the other party. Rebuttal witnesses shall be called in the same order. The mayor shall rule on any evidentiary questions

arising during such hearing and shall make other rulings necessary or advisable to facilitate an orderly hearing, subject to approval of the board. The board, the superintendent, his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(10) The chairperson shall possess all the authority delegated to the mayor by this section when acting in the mayor's absence or place.

(11) An appeal may be taken from any final order or other final determination of the superintendent or Board by any party who is or may be adversely affected thereby to the Chancery Court pursuant to the common law writ of certiorari set in Tennessee Code Annotated (T.C.A.) 27-8-101, within 60 days from the date such order or determination is made. (As added by Ord. #97-4, June 1997)

CHAPTER 8

FIRE AND FLUSHING HYDRANTS

SECTION

18-801. Adoption of ordinance.

18-802. Terms and provisions.

18-801. Adoption of ordinance. An ordinance relating to the installation, use and classification of fire and flushing hydrants on the municipal water system of the Town of Newbern and on the rural water system of the Town of Newbern shall be and is hereby adopted by the Board of Mayor and Aldermen of the Town of Newbern. (Ord. No. 94-6, § 1, July 1994)

18-802. Terms and provisions. The express terms and provisions of said ordinance shall be: (1) All fire and flushing hydrants at any time installed or located on or upon either of the Town of Newbern's municipal water system or its rural water system shall be classified by the town as either fire hydrants or flushing hydrants. Such classification shall occur as soon as practicable after the installation of each such hydrant. The basis for determination of classification shall be the ability of each such hydrant to produce a flow equal to or greater than 500 gallons per minute at 20 PSI residual pressure. All hydrants which, upon testing, do produce a flow equal to or greater than the aforesaid criteria shall be classified as fire hydrants. All hydrants which, upon testing, do not produce a flow equal to or greater than the aforesaid criteria shall be classified as flushing hydrants.

(2) All hydrants classified as fire hydrants shall be painted the color red or orange or green in accordance with the color standards of the American Water Works Association, to reflect the fire hydrant classification.

(3) All hydrants classified as flushing hydrants shall be painted the color medium blue to reflect the flushing hydrant classification.

(4) Written notice of the classification of hydrants as fire hydrants and flushing hydrants shall be furnished by the town to all organized fire departments within the Town of Newbern or County of Dyer which include within their regular fire service territories, locations served by either of the town's municipal water system or its rural water system. Such notice shall expressly prohibit the connection of any pumper fire truck or similar fire fighting equipment to any hydrant other than a fire hydrant classified in accordance with the terms of this ordinance. (Ord. No. 94-6, § 1, July 1994)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. NATURAL GAS.

CHAPTER 1

ELECTRICITY¹

SECTION

- 19-101. Application for service.
- 19-102. Deposit.
- 19-103. Point of delivery.
- 19-104. Customer's wiring--standards.
- 19-105. Inspections.
- 19-106. Underground service lines.
- 19-107. Customer's responsibility for municipal property.
- 19-108. Right of access.
- 19-109. Billings.
- 19-110. Discontinuance of service by municipality.
- 19-111. Reconnection charge.
- 19-112. Termination of contract by customer.
- 19-113. Service charges for temporary service.
- 19-114. Temporary service and temporary service fees.
- 19-115. Interruption of service.
- 19-116. Voltage fluctuations caused by customer.
- 19-117. Additional load.
- 19-118. Standby and resale service.
- 19-119. Notice of trouble.
- 19-120. Nonstandard service.
- 19-121. Meter tests.
- 19-122. Relocation of outdoor lighting facilities.
- 19-123. Relocation of services.
- 19-124. Relocation of lines.
- 19-125. Billing adjusted to standard periods.
- 19-126. Scope.
- 19-127. Revisions.

¹Municipal code reference
Electrical code: title 12.

- 19-128. Conflict.
 19-129. Customer service extensions.
 19-130. Services to entertainment groups.

19-101. Application for service. Each prospective customer desiring electric service may be required to sign municipality's standard form of application for service or contract before service is supplied. (1982 Code, § 13-301)

19-102. Deposit. A deposit or suitable guarantee approximately equal to twice the average monthly bill may be required of any customer before electric service is supplied. Municipality may at its option return deposit to customer after one year. Upon termination of service, deposit may be applied by municipality against unpaid bills of customer, and if any balance remains after such application is made, said balance shall be refunded to customer.

RESIDENTIAL PROPERTY

The following deposits will be required before occupancy:

<u>Residential home owners:</u>	<u>Heating with gas:</u> \$5 for electric, \$5 for water, \$8 for gas
	<u>Heating with electricity:</u> \$10 for electric, \$5 for water

Note: However, proof of purchase of this property will be required before these deposits can apply.

Residential rental property: A security deposit of approximately twice an estimated monthly bill.

Rental mobile homes will require the same deposits as residences.

Property owners may guarantee payment of accounts of tenants in lieu of deposits by executing an appropriate agreement.

COMMERCIAL PROPERTY

In all other classes of service, such as commercial establishments and in some industrial classes where the member's credit standings have not been established, a security deposit of approximately twice an estimated monthly bill may be required. (1982 Code, § 13-302)

19-103. Point of delivery. The point of delivery is the point, as designated by municipality, on customer's premises where current is to be delivered to building or premises. All wiring and equipment beyond this point of delivery shall be provided and maintained by customer. (1982 Code, § 13-303)

19-104. Customer's wiring--standards. All wiring of customer must conform to municipality's requirements and accepted modern standards and to the municipal electric code (National Electric Code). (1982 Code, § 13-304)

19-105. Inspections. Municipality shall have the right, but shall not be obligated, to inspect any installation before electricity is introduced or at any later time, and reserves the right to reject any wiring or appliances not in accordance with municipality's standards; but such inspection or failure to inspect or reject shall not render municipality liable or responsible for any loss or damage resulting from defects in the installation, wiring, or appliances, or from violation of municipality's rules, or from accidents which may occur upon customer's premises. (1982 Code, § 13-305)

19-106. Underground service lines. Customers desiring underground service lines from municipality's overhead system must bear the excess cost incident thereto. Specifications and terms for such construction will be furnished by municipality on request. (1982 Code, § 13-306)

19-107. Customer's responsibility for municipal property. All meters, service connections, and other equipment furnished by municipality shall be, and remain, the property of municipality. Customer shall provide a space for and exercise proper care to protect the property of municipality on its premises.

Any damage to the municipality's property arising from customer's intentional actions or neglect shall be the responsibility of and paid for by the customer. Municipality shall repair said damage or replace the damaged equipment and add the cost of same to customer's monthly bill rendered pursuant to § 19-109. Said cost shall be paid and collected together with all other monthly service fees pursuant to § 19-109. (1982 Code, § 13-307, as amended by Ord. #90-__, May 1990)

19-108. Right of access. Municipality's identified employees shall have access to customer's premises at all reasonable times for the purpose of reading meters, testing, repairing, removing, or exchanging any or all equipment belonging to municipality. (1982 Code, 13-308)

19-109. Billings. Bills will be rendered monthly and shall be paid within ten (10) days from date of bill at the office of municipality. Failure to receive bill will not release customer from payment obligation. Second notices will not be mailed. The gross amount is then due and if not paid within fifteen (15) days

after discount date, service will be discontinued without further notice. Bills paid on or before the final date of payment shall be payable at the net rates, but thereafter the gross rates shall apply, as provided in the schedule of rates and charges. Should the final date for payment of the bill at the net rates fall on Saturday, Sunday or holiday, the business day next following the final date will be held as a day of grace for delivery of payment. Net rate remittance received by mail after the time limit for payment at said net rates will be accepted by municipality if the incoming envelope bears United States Post Office date stamp of the final date for payment of the net amount or any date prior thereto.

After the expiration of time specified, the serviceman is instructed to visit customer's premises for the purpose of making collection or discontinuing service. If the collection is made, a charge of \$10.00 is added to the bill. If it becomes necessary to disconnect the service, a charge of \$20.00 is added to the bill and is to be collected before service is restored.

If a customer is delinquent in the payment of his or her electric account and seeks service in the name of another member of his or her household or in the name of another customer to avoid payment of delinquent bills, service may be denied until all bills have been paid and likewise service may be denied a customer who is delinquent in the payment of his or her electric account.

Should delinquent bills remain unpaid for a period exceeding six (6) months they are to be presented to the board of mayor and aldermen for authorization to write off or for collection by attorney. (1982 Code, § 13-309)

19-110. Discontinuance of service by municipality. Municipality may refuse to connect or may disconnect service for the violation of any of its rules and regulations, or for violation of any of the provisions of the schedule of rates and charges, or of the application of customer or contract with customer. Municipality may discontinue service to customer for the theft of current or the appearance of current theft devices on the premises of customer. The discontinuance of service by municipality for any causes as stated in this rule does not release customer from his obligation to municipality for the payment of minimum bills as specified in application of customer or contract with customer. (1982 Code, § 13-310)

19-111. Reconnection charge. Whenever service has been discontinued by municipality, as provided above, or a trip is made for the purpose of discontinuing service, a charge of not less than one dollar (\$1.00) may be collected by municipality before service is restored. (1982 Code, § 13-311)

19-112. Termination of contract 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 contract specifies otherwise. Notice to discontinue service prior to expiration of contract term will not relieve

customer from any minimum or guaranteed payment under any contract or rate. (1982 Code, § 13-312)

19-113. Service charges for temporary service. Customers requiring electric service on a temporary basis may be required by municipality to pay all costs for connection and disconnection incidental to the supplying and removing of service. This rule applies to circuses, carnivals, fairs, temporary construction, and the like. (1982 Code, § 13-313)

19-114. Temporary service and temporary service fees. Temporary service shall wherever practicable be furnished to customers and prospective customers upon request in accordance with the following instructions:

Temporary service shall be furnished to a location that will later become a permanent location for the fee of \$7.50. All such temporary services shall be three wire except in locations where the permanent service will be two wire and the customer expresses a desire for two wire temporary service only.

Where temporary service is requested in locations that will not later become a permanent location, the person requesting such service shall pay an amount equal to the estimated labor cost to install and remove such service. For the purpose of this section temporary shall be interpreted as any period less than three (3) years.

All temporary services shall be metered and receive a monthly bill in the same manner as a permanent service.

In the following cases, temporary service shall be furnished the customer at no cost to the customer:

(1) Where the service wires and meter are temporarily removed from an existing service location for the purpose of construction.

(2) When an existing service location is destroyed by fire, storm, or other disaster over which the customer has no control, service shall be restored to a point approximately the point of original service without cost to the customer, provided such service is requested within sixty (60) days after the disaster. (1982 Code, § 13-314)

19-115. Interruption of service. Municipality will use reasonable diligence in supplying current, but shall not be liable for breach of contract in the event of, or for loss, injury, or damage to persons or property resulting from interruptions in service, excessive or inadequate voltage, single-phasing, or otherwise unsatisfactory service, whether or not caused by negligence. (1982 Code, § 13-315)

19-116. Voltage fluctuations caused by customer. Electric service must not be used in such a manner as to cause unusual fluctuations or disturbances to municipality's system. Municipality may require customer, at his own

expense, to install suitable apparatus which will reasonably limit such fluctuations. (1982 Code, 13-316)

19-117. Additional load. The service connection, transformers, meters, and equipment supplied by municipality for each customer have definite capacities, and no addition to the equipment or loads connected thereto will be allowed except by consent of municipality. Failure to give notice of additions or changes in load, and to obtain municipality's consent for same, shall render customer liable for any damage to any of municipality's lines or equipment caused by the additional or changed installation. (1982 Code, § 13-317)

19-118. Standby and resale service. All purchased electric service (other than emergency or standby service) used on the premises of customer shall be supplied exclusively by municipality, and customer shall not, directly or indirectly, sell, sublet, assign, or otherwise dispose of the electric service or any part thereof. (1982 Code, § 13-318)

19-119. Notice of trouble. Customer shall notify municipality immediately should the service be unsatisfactory for any reason, or should there be any defects, trouble, or accidents affecting the supply of electricity. Such notices, if verbal, should be confirmed in writing. (1982 Code, § 13-319)

19-120. Nonstandard service. Customer shall pay the cost of any special installation necessary to meet his peculiar requirements for service at other than standard voltages, or for the supply of closer voltage regulation than required by standard practice. (1982 Code, § 13-320)

19-121. Meter tests. Municipality will, at its own expense, make periodical tests and inspections of its meters in order to maintain a high standard of accuracy. Municipality will make additional tests or inspections of its meters at the request of customer. If tests made at customer's request show that the meter is accurate within two percent (2%), slow or fast, no adjustment will be made in customer's bill, and the testing charge of one dollar (\$1.00) per meter will be paid by customer. In case the test shows meter to be in excess of two percent (2%) fast or slow, an adjustment shall be made in customer's bill over a period of not over thirty (30) days prior to date of such test, and cost of making test shall be borne by municipality. (1982 Code, § 13-321)

19-122. Relocation of outdoor lighting facilities. Municipality shall, at the request of customer, relocate or change existing municipally owned equipment. Customer shall reimburse municipality for such changes at actual cost including appropriate overheads. (1982 Code, § 13-322)

19-123. Relocation of services. The point of service entrance on a customer's premises may be changed at the request of or with the permission of the customer when, in the opinion of the engineer, such change is justified.

When the point of service entrance on a customer's premises is changed at the request of the customer and for the sole benefit of the customer and such change requires the moving or addition of a pole, a charge of \$12.50 shall be paid by the customer.

The point of service entrance will be considered as changed when the meter is permanently moved:

- (1) From one place to another on the same building;
- (2) From one building to another;
- (3) From a building to a pole;
- (4) From a pole to a building.

There shall be no charge for removing the service wires and/or meter from a building for the purpose of remodeling or adding to the building, or removing an old building and constructing a new one. In the case of remodeling or adding to an existing building, the service entrance charge may be applied when the meter is returned to the building unless it is returned to its original location.

In the case of an out and out new building, replacing a building which was receiving service, there shall be no charge for moving the service entrance even if the meter is not returned to the original location. This does not imply that we must locate the meter at any place the customer desires on a new house, without cost, and in some cases it may be necessary to refuse to locate the meter at the location desired by the customer or to require him to pay part of the additional cost required to run the service wires to this location.

There shall be no charge for moving the service entrance in cases where the existing meter is the bottom feed type. (1982 Code, § 13-323)

19-124. Relocation of lines. In cases where any part of the distribution system, other than the service entrance, is moved or changed at the request of a customer, and for the sole benefit of the customer, a charge of the total cost of making the change shall be made to the person requesting such change.

If the state, county, or town government requests that any part of the distribution system be moved or changed, the requesting party may be charged an amount consistent with existing state and federal laws, but not more than the actual cost of making such change, provided the manager considers such charge advisable. (1982 Code, § 13-324)

19-125. Billing adjusted to standard periods. The demand charges and the blocks in the energy charges set forth in the rate schedules are based on billing periods of approximately one month. In case of the first billing of new accounts (temporary service, cotton gins, and other seasonal customers excepted) and final billings of all accounts (temporary service excepted) where the period covered by the billing involves fractions of a month, the demand charges and the

blocks of the energy charge will be adjusted to a basis proportionate with the period of time during which service is extended. (1982 Code, § 13-325)

19-126. Scope. This schedule of rules and regulations is a part of all contracts for receiving electric service from municipality, and applies to all service received from municipality, whether the service is based upon contract, agreement, signed application, or otherwise. A copy of this schedule, together with a copy of municipality's schedule of rates and charges, shall be kept open to inspection at the office of municipality. (1982 Code, § 13-326)

19-127. Revisions. These rules and regulations may be revised, amended, supplemented, or otherwise changed from time to time, without notice. Such changes, when effective, shall have the same force as the present rules and regulations. (1982 Code, § 13-327)

19-128. Conflict. In case of conflict between any provision of any rate schedule and the schedule of rules and regulations, the rate schedule shall apply. (1982 Code, § 13-328)

19-129. Customer service extensions. Wherever possible, service shall be provided to permanent customer locations in the area we serve upon request.

In some cases involving extensions of three or more poles in length, it may be necessary to insure a reasonable return on the investment by means of a monthly bill. The amount of this minimum bill shall be determined on the basis of approximately one dollar (\$1.00) per mile of line, but no minimum bill of less than three dollars (\$3.00) per month shall be assigned except as outlined in other sections of this code.

In the case of extensions to locations other than residences, such as barns, small wells, etc., a monthly minimum bill shall be determined on the basis of one dollar (\$1.00) per month for each pole, but not less than two dollars (\$2.00) per month. There shall be no unity charge for another installation. Initiate standard form "Monthly Minimum Bill Contract."

In the case of tenant houses or other locations which the engineer has reason to believe may not prove to be permanent customer locations the property owner or long-term renter may be asked to guarantee the payment of the monthly minimum bill for a continuous period of thirty-six (36) months. (1982 Code, § 13-329)

19-130. Services to entertainment groups. It shall be the policy of Newbern Electric Department that before it serves a temporary connection to a customer which will redistribute power to its own equipment, devices, and installations, either enclosed or unenclosed, to which the general public will be invited, whether or not for a charge, said customer shall present a certificate of inspection from the Department of Insurance and execute an agreement to

indemnify the Newbern Electric Department against any damages to property or injuries to persons resulting from the operation of any such equipment, resulting in installations or devices and deliver a certificate of insurance from some reliable insurance company insuring said customer for general liability, in limits not less than \$300,000.00 for each occurrence and \$1,000,000.00 aggregate with the Newbern Electric Department named as an additional insured. (1982 Code, § 13-330)

CHAPTER 2

NATURAL GAS¹

SECTION

- 19-201. Application for service.
- 19-202. Deposit required.
- 19-203. Point of delivery.
- 19-204. Customer's gas system--standards.
- 19-205. Right of access.
- 19-206. Inspections.
- 19-207. Resale of gas.
- 19-208. Unauthorized use of gas system.
- 19-209. Customer's responsibility.
- 19-210. Interruption of service.
- 19-211. Meter tests.
- 19-212. Billing.
- 19-213. Discontinuance of service.
- 19-214. Reconnection charge.
- 19-215. Termination of contract by customer.
- 19-216. Temporary service.
- 19-217. Rates.

19-201. Application for service. Each prospective customer desiring natural gas service will be required to sign a standard form of contract before service is supplied. (1982 Code, § 13-401)

19-202. Deposit required. A deposit must accompany each application for service. The amount of such deposit shall be as set out in the current "rate schedule." Upon termination of service, the deposit will be applied against any unpaid bill or account due the municipality and its departments. Any balance remaining shall be refunded. (1982 Code, § 13-402)

19-203. Point of delivery. The point of delivery for gas service shall be the outlet of the gas meter either located on or off the customer's premises, as designated and required by the municipality. All facilities beyond said point of delivery shall be owned and maintained by the customer. (1982 Code, § 13-403)

¹Municipal code reference
Gas code: title 12.

19-204. Customer's gas system--standards. The customer's gas system and attachments thereto shall conform to the current municipal gas code and to all municipal ordinances pertinent to same. (1982 Code, § 13-404)

19-205. Right of access. Municipal employees shall have access to customer's premises at all reasonable times for the purpose of reading meters, testing, repairing, removing or exchanging any or all equipment of municipality and for inspecting customer's premises in order to assure compliance with these rules and regulations. (1982 Code, § 13-405)

19-206. Inspections. The municipality shall have the right, but shall not be obligated, to inspect any installation or gas system before gas service is furnished or at any later date. The municipality reserves the right to refuse service or to discontinue service to any premises not meeting the standards fixed by the municipal ordinances regulating building or natural gas installations.

Any failure to inspect or reject a customer's installation or gas system shall not render the municipality liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1982 Code, § 13-406)

19-207. Resale of gas. All natural gas shall be supplied within the municipality exclusively by the municipality and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of natural gas sold to him by the municipality. (1982 Code, § 13-407)

19-208. Unauthorized use of gas system. No person shall turn on or off any of the municipality's stop cocks, valves, hydrants, or spigots without permission or authority from the municipality. (1982 Code, § 13-408)

19-209. Customer's responsibility. All meters, service connections, and other equipment furnished by the municipality shall remain the property of the municipality. Each customer shall provide space for and exercise proper care to protect the property of municipality on his premises.

Municipality shall be solely responsible for the construction of all connections made to the gas mains, service lines to and including the metering devices on customer's property.

Any damage to municipality's property or to the connections to gas mains, service lines or metering devices arising from customer's intentional actions or neglect shall be the responsibility of and paid for by the customer. Municipality shall repair such damage or replace the damaged equipment and add the cost of same to customer's monthly bill rendered pursuant to § 19-212. Said cost shall be paid and collected together with all other monthly services fees pursuant to Section 19-212. (1982 Code, § 13-409, as amended by Ord. #90-___, May 1990)

19-210. Interruption of service. The municipality will endeavor to furnish continuous gas service, but does not guarantee to the customer any fixed pressure or continuous service. The municipality cannot be liable for any damages for any interruption of service, or from any damage caused by low pressure, high pressure, or fluctuations in pressure in the gas system's mains. (1982 Code, § 13-410)

19-211. Meter tests. Municipality will make periodical tests and inspections of its meters in order to maintain a high standard of accuracy. Municipality will make additional tests of its meters at the request of customer. If the meter is found to be correct within 2% variance the customer shall pay the cost of the meter testing. (1982 Code, § 13-411)

19-212. Billing. Bills will be rendered monthly and shall be paid on or before the discount date in order to obtain the net rates, otherwise gross rates shall apply. Failure to receive a bill will not release a customer from payment obligations. A customer's failure to pay within five (5) days after discount date shall be deemed a request by customer that service be discontinued. The municipality shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment is made at any time on the day that service is actually discontinued. (1982 Code, § 13-412)

19-213. Discontinuance of service. The board of mayor and aldermen shall have the right to discontinue service for violation of any of its rules and regulations or of customer's contract for service.

Discontinuance of service for any cause shall not release customer from liability for service already received. (1982 Code, § 13-413)

19-214. Reconnection charge. Whenever service has been discontinued as provided above, or a trip is made for the purpose of discontinuing service, a charge of not less than one dollar (\$1.00) shall be collected before service is restored. (1982 Code, § 13-414)

19-215. Termination of contract by customer. Three (3) days written notice shall be given by customers wishing to discontinue service. Such notice prior to expiration of contract term will not relieve customer of any minimum or guaranteed payment under any contract or rate schedule. (1982 Code, § 13-415)

19-216. Temporary service. Customers requiring temporary service shall pay all costs of connection and disconnection incidental to the supplying and removing of services in addition to the regular charge for gas consumed. (1982 Code, § 13-416)

19-217. Rates. The rates to be charged for natural gas service shall be those established by the board of mayor and aldermen, from time to time, by resolution. (1982 Code, § 13-417)

TITLE 20

MISCELLANEOUS

RESERVED FOR FUTURE USE

ORDINANCE NO. 94-1

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF NEWBERN, TENNESSEE.

WHEREAS some of the ordinances of the Town of Newbern are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Newbern, 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 "Newbern Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF NEWBERN, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the town 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 "Newbern 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 town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel,

passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

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, wherever in the municipal code, including the codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the municipal code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the municipal code shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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.

When any person is fined 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 penalty is 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.¹

Each day any violation of the municipal code continues shall constitute a separate offense.

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

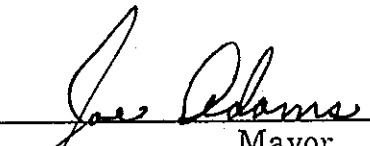
Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

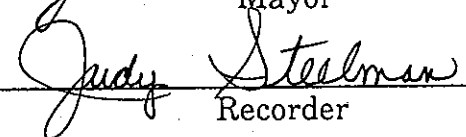
Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading February 15, 1994.

Passed 2nd reading March 1, 1994.



Mayor



Recorder

ORDINANCE NO. 96-6

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE TOWN OF NEWBERN, TENNESSEE.

BE IT ORDAINED BY THE MAYOR AND ALDERMEN OF THE TOWN OF NEWBERN, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in Change 2 to the Town of Newbern Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the Town of Newbern Municipal Code.

Change 2 includes revisions required to the municipal code when considering Ordinance Number 93-1 (March 1993) through Ordinance Number 95-6 (October 1995) and the Sewer Use Ordinance/Enforcement Response Plan prepared February 1992 and which passed second reading April 21, 1992. Code sections affected by these ordinances contain citations to the amending ordinance at the end of the code section.

Section 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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 supplement or the municipal code or other applicable law.

When any person is fined for violating any provision of the supplement and defaults on payment of the penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until the penalty is discharged by payment, or until the

person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged the penalty.¹

Each day any violation of the supplement continues shall constitute a separate offense.

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.


Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 6. Code available for public use. Three copies of the supplement shall be kept available in the recorder's office for public use and inspection at all reasonable times.

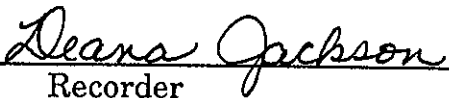
Section 7. Date of effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed 1st reading October 22, 19 96.

Passed 2nd reading October 29, 19 96.



Mayor



Recorder

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, section 40-24-101 et seq.