THE SELMER MUNICIPAL CODE

Prepared by the

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

in cooperation with the
TENNESSEE MUNICIPAL LEAGUE

JUNE 1991

TOWN OF SELMER, TENNESSEE

MAYOR

Sherry L. Inman

BOARD OF ALDERMEN

John Austin
John Finlayson
J.T. Hawkins
Johnny Norris
Willie Sain

TOWN RECORDER

Ann Henderson

TOWN ATTORNEY

Terry Abernathy

PREFACE

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

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

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

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

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

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

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

(3) That the town agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Mrs. Tracy Gardner, the MTAS Sr. Word Processing Specialist who did all the typing on this project, is gratefully acknowledged.

Andre Coure
Codification Specialist

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN CHARTER

Section 16. Be it further enacted, That no bill or ordinance shall become a law of the said Town of Selmer unless the same shall have passed three readings on three several days by a majority vote, and shall have been signed by the Mayor, unless he fail to veto same by the next regular meeting of the Board. The Mayor shall examine all bills passed and affix his signature at once, if the same meets his approval; if it does not meet his approval, he shall return the same to the next regular meeting of the Board, with his objections in writing, and no law so vetoed shall go into effect unless and until it is again passed by a majority of the entire Board.

Change 8
June 29, 2023

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TITLE 1

GENERAL ADMINISTRATION[1]

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

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN

SECTION
1-101. Time and place of regular board meetings.
1-102. Order of business.
1-103. General rules of order.
1-104. Compensation of aldermen.

1-101. Time and place of regular board meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 p.m. on the second Tuesday of each month at the town hall. (Code of 1977, § 1-101)

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 board:

1. The meeting will be called to order by the mayor.
2. The roll will be called by the recorder.
3. The minutes of the previous meeting will be read by the recorder and acted upon by the board.
4. The board will hear communications from the mayor.
5. The board will hear reports from committees, aldermen and other officers.
6. The board will dispose of old business.
7. The board will consider new business.
8. The meeting will be adjourned. (Code of 1977, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Revised, shall govern the

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[1]See sections 3, 6, and 8, of the charter for Election of Mayor and Aldermen, Miscellaneous Powers, Etc.

transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with special rules in the town's charter or adopted by the board and set out in this code. (Code of 1977, § 1-103)

1-104. Compensation of aldermen. The salary of the Alderman of the Town of Selmer shall be $150.00 per month and shall be paid to the alderman monthly. (as added by Ord. #524, Dec. 2005)

CHAPTER 2

MAYOR[1]

SECTION
1-201. Generally supervises town's affairs.
1-202. Executes town's contracts.
1-203. Compensation.

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all the affairs of the town and may require such reports from the various officers and employees of the town as he may reasonably deem necessary to carry out his executive responsibilities. (Code of 1977, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts authorized by the board of mayor and aldermen. (Code of 1977, § 1-202)

1-203. Compensation. 1. Beginning on July 1, 2002, the base salary for the mayor shall be as follows:

$44,000 per annum.

2. Beginning on July 1, 2003, the base salary for the mayor shall be as follows:

$46,000 per annum.

3. Beginning on July 1, 2004, the base salary for the mayor shall be as follows:

$47,000 per annum.

(as added by Ord. #484, Aug. 2001)

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[1]See section 6 of the charter for specific powers of the Mayor.

CHAPTER 3

RECORDER[1]

SECTION
1-301. To be bonded.
1-302. To keep an ordinance book.
1-303. To perform general clerical duties, etc.

1-301. To be bonded. The recorder shall be bonded in the sum of $10,000 before assuming the duties of his office. (Code of 1977, § 1-301)

1-302. To keep an ordinance book. The recorder shall keep an ordinance book in which he shall keep the original copy of all ordinances passed by the board of mayor and aldermen. (Code of 1977, § 1-302)

1-303. To perform general clerical duties, etc. The recorder shall perform all clerical duties for the board of mayor and aldermen and for the Town of Selmer which are not expressly assigned by the charter or this code to another corporate officer. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and paper. (Code of 1977, § 1-303)

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[1]See sections 8 and 15, for Appointment, Compensation and Duties of the Recorder.

CHAPTER 4

TREASURER[1]

SECTION
1-401. To be bonded.

1-401. To be bonded. The treasurer shall be bonded in the sum of $10,000 before assuming the duties of his office. (Code of 1977, § 1-401)

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

1. Bond. secs. 8 and 13.
2. Cannot be recorder. sec. 13.
3. Duties may be prescribed by ordinance. sec. 13.
4. Election. sec. 13.
5. Handling of improvement bond proceeds. sec. 56.
6. Handling of sinking fund tax revenues. sec. 11.
7. Payment of school bonds and interest. sec. 12.
8. Term of office. sec. 13.
9. To be an alderman. sec. 13.

See also title 5 of this code on finance and taxation.

CHAPTER 5

CODE OF ETHICS[1]

SECTION

1-501. Applicability.
1-502. Definition of "personal interest."
1-503. Disclosure of personal interest by official with vote.
1-504. Disclosure of personal interest in non-voting matters.
1-505. Acceptance of gratuities, etc.
1-506. Use of information.
1-507. Use of municipal time, facilities, etc.
1-508. Use of position or authority.
1-509. Outside employment.
1-510. Ethics complaints.
1-511. Violations.

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

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

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

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

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

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

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

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

1-501. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of 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. #557, June 2007)

1-502. Definition of "personal interest." 1. For purposes of §§ 1-503 and 1-504, "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), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

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

3. In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #557, June 2007)

1-503. 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 in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself[1] from voting on the measure. (as added by Ord. #557, June 2007)

1-504. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or

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

policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #557, June 2007)

1-505. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

2. That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business, or

3. Acceptance of food, refreshments or services not exceeding fifty dollars ($50.00) per person outside of McNairy County or thirty dollars ($30.00) within McNairy County in value on a single calendar day are not deemed to be of the nature that would impact or appear to impact discretion, as governed by Tennessee Code Annotated, § 8-17-102. (as added by Ord. #557, June 2007)

1-506. 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. #557, June 2007)

1-507. 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. #557, June 2007)

1-508. 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. #557, June 2007)

1-509. 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. #557, June 2007)

1-510. Ethics complaints. 1. The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

4. When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #557, June 2007)

1-511. 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 added by Ord. #557, June 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. [DELETED.]
2. [DELETED.]
3. [DELETED.]
4. PARKS AND RECREATION ADVISORY BOARD.

CHAPTER 1

(as deleted by Ord. #536, June 2006)

CHAPTER 2

(as deleted by Ord. #535, June 2006)

CHAPTER 3

(as deleted by Ord. #534, June 2006)

CHAPTER 4

PARKS AND RECREATION ADVISORY BOARD

SECTION
2-401. Established.
2-402. First board with terms of office.
2-403. Ex-officio members.

2-401. Established. There is hereby created a Parks and Recreation Advisory Board for the Town of Selmer. (as added by Ord. #495, Oct. 2002)

2-402. First board with terms of office. The following bona fide residents of Selmer/McNairy County are appointed to serve as the first board with terms of office as are described below.

One-Year Term
Tracy Helmuth
Sharon Smith
Jerry Eskridge

Two-Year Term
Steve King
Andrea Littlejohn
Shawn Pitts

Three-Year Term
Sybil Dancer
Larry Hart
Derick Bodiford
(as added by Ord. #495, Oct. 2002)

2-403. Ex-officio members. The park and recreation director, mayor, and one member of the board of aldermen shall be ex-officio members of this board. (as added by Ord. #495, Oct. 2002)

TITLE 3

MUNICIPAL COURT

CHAPTER
1. TOWN COURT.

CHAPTER 1[1]

TOWN COURT

SECTION
3-101. Town judge.
3-102. Maintenance of docket.
3-103. Issuance of arrest warrants.
3-104. Issuance of summonses.
3-105. Issuance of subpoenas.
3-106. Trial and disposition of cases.
3-107. Appearance bonds authorized.
3-108. Imposition of penalties and costs.
3-109. Appeals.
3-110. Bond amounts, conditions, and forms.
3-111. Disposition and report of fines, penalties, and costs.
3-112. Disturbance of proceedings.

3-101. Town judge. The officer designated by the charter to handle judicial matters within the Town of Selmer shall preside over the town court and shall be known as the town judge. (Code of 1977, § 1-701)

3-102. Maintenance of docket. The town 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, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (Code of 1977, § 1-702)

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[1]See also, section 23 of the charter, for Appointment and Duties of City Trial Judge.

3-103. Issuance of arrest warrants.[1] The town judge shall have the power to issue warrants for the arrest of persons charged with violating town ordinances. (Code of 1977, § 1-703)

3-104. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town 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 town 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 town 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. (Code of 1977, § 1-704)

3-105. Issuance of subpoenas. The town 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. (Code of 1977, § 1-705)

3-106. Trial and disposition of cases. Every person charged with violating a town ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the town 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. (Code of 1977, § 1-706)

3-107. Appearance bonds authorized. When the town 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 town judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (Code of 1977, § 1-707)

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[1]See the Tennessee Code Annotated, title 40, chapter 5, for authority to issue search warrants.

See also, section 23 of the charter, for Appointment and Duties of City Trial Judge.

3-108. Imposition of penalties and costs. All penalties and costs shall be imposed by the town judge and recorded by the court clerk on the town court docket in open court. In all cases heard and determined by the judge, the town judge shall impose court costs in the amount of one hundred twenty dollars ($120.00). One dollar ($1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. In addition, pursuant to authority granted in Tennessee Code Annotated, § 67-4-601, the court shall levy a local litigation tax in the amount of thirteen dollars and seventy-five cents ($13.75) in all cases on which state litigation tax is levied. (Code of 1977, § 1-708, as replaced by Ord. #504, March 2004, Ord. #523, Nov. 2005, Ord. #541, Aug. 2006, amended by Ord. #630, Sept. 2013, and replaced by Ord. #675, June 2019 ***Ch8_06-29-23***)

3-109. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days[1] next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (Code of 1977, § 1-709)

3-110. Bond amounts, conditions, and forms. An appearance bond in any case before the town court shall be in such amount as the town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town 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 located within the county. No other type bond shall be acceptable. (Code of 1977, § 1-710)

3-111. Disposition and report of fines, penalties and, costs. All funds coming into the hands of the town judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the Town of Selmer. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (Code of 1977, § 1-711)

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[1]See section 27-5-104, Tennessee Code Annotated.

3-112. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (Code of 1977, § 1-712)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER
1. SOCIAL SECURITY--TOWN PERSONNEL.
2. VACATIONS AND SICK LEAVE--TOWN PERSONNEL.
3. MISCELLANEOUS REGULATIONS--TOWN PERSONNEL.
4. TORT LIABILITY.
5. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
6. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

SOCIAL SECURITY - TOWN 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 to be made.
4-106. Personnel excluded from coverage.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the town to provide for the employees and officials of the town, not excluded by law or by this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old-age and survivors insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (Code of 1977, § 1-801)

4-102. Necessary agreements to be executed.[1] 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. (Code of 1977, § 1-802)

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[1]See Ord. #432 (Dec. 1994) of record in the office of the recorder for amendments to the social security agreement by and between the Town of Selmer, Tennessee, and the State Old Age and Survivors Insurance Agency.

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in section 1-701, hereof, are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (Code of 1977, § 1-803)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions and the same shall be paid over to the state or federal agency designated by said laws or regulations. (Code of 1977, § 1-804)

4-105. Records and reports to be made. The town shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (Code of 1977, § 1-805)

4-106. Personnel excluded from coverage.[1] There is hereby excluded from this chapter any authority to make any agreement with respect to emergency, part-time, and fee basis employees and elective "legislative," "executive," and "judicial" officials as of January 1, 1958, or any employee or official authorized to be covered by any other ordinance creating any other retirement system for any employee or official of the town, or any employee or official not authorized to be covered by applicable federal or state laws or regulations. Action under section 4-102, the mayor is directed to amend the Social Security agreement so as to extend the benefits of the System of Federal Old Age and Survivors Insurance to include the services of part-time employees as of January 1, 1978; and to exclude the services performed by election officials and election workers if the renumeration 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. (Code of 1977, § 1-806)

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[1]See Ord. #432 (Dec. 1994) of record in the office of the recorder for amendments to the social security agreement by and between the Town of Selmer, Tennessee, and the State Old Age and Survivors Insurance Agency.

CHAPTER 2

VACATIONS AND SICK LEAVE--TOWN PERSONNEL

SECTION

4-201. Applicability of chapter.
4-202. Vacation leave.
4-203. Sick leave.
4-204. Leave records.

4-201. Applicability of chapter. This chapter shall apply to all full-time municipal officers and employees except those operating under the jurisdiction of a school, utility, or other separate board or commission. (Code of 1977, § 1-901)

4-202. Vacation leave. All officers and employees shall be given two (2) weeks of vacation leave with pay for each year of employment hereafter served. Such vacation leave shall be taken at a time approved by the mayor or such other officer as he may designate. At no time shall a person's total credit for vacation leave exceed four (4) weeks. (Code of 1977, § 1-902)

4-203. Sick leave. All officers and employees shall be given credit of one (1) working day of sick leave with pay for each month of employment hereafter served. Sick leave shall be taken only when approved by the mayor or by such other officer as he may designate. Sick leave, up to the number of days accrued, shall be approved for all officers and employees whose absence from duty is due to illness, bodily injury, exposure to contagious disease, or death to the officer or employee's husband, wife, mother, father, son, daughter, grandmother, grandfather, mother-in-law or father-in-law. However, the mayor may, in his discretion, require doctors' certificates or other satisfactory evidence that absences are properly chargeable as sick leave. The maximum credit for accrued sick leave under the provisions of this section shall be unlimited. (Code of 1977, § 1-903, as amended by Ord. # 323)

4-204. Leave records. The mayor shall cause to be kept, for each officer and employee, a record currently up to date at all times showing credits earned and leave taken under this chapter. (Code of 1977, § 1-904)

CHAPTER 3

MISCELLANEOUS REGULATIONS--TOWN PERSONNEL

SECTION

4-301. Business dealings.
4-302. Acceptance of gratuities.
4-303. Outside employment.
4-304. Political activity.
4-305. Use of town time, facilities, etc.
4-306. Use of position.
4-307. Strikes and unions.
4-308. Compliance with Civil Rights Act.

4-301. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the municipality. (Code of 1977, § 1-1001)

4-302. Acceptance of gratuities. No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the municipality for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to town business. (Code of 1977, § 1-1002)

4-303. Outside employment. No full-time officer or employee of the town shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the Town of Selmer. (Code of 1977, § 1-1003)

4-304. Political activity. Town officers and employees may individually exercise their right to vote and privately express their political views as citizens. However, no town officer or employee shall solicit political campaign contributions or engage in or actively participate in any municipal political campaign. These restrictions shall not apply to elective officials. (Code of 1977, § 1-1004)

4-305. Use of town time, facilities, etc. No town officer or employee shall use or authorize the use of town time, facilities, equipment, or supplies for

private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the board of mayor and aldermen has authorized the use of such time facilities, equipment, or supplies, and the Town of Selmer is paid at such rates as are normally charged by private sources for comparable services. (Code of 1977, § 1-1005)

4-306. Use of position. No municipal officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the municipality, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (Code of 1977, § 1-1006)

4-307. Strikes and unions. No municipal officer or employee shall participate in any strike against the municipality, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (Code of 1977, § 1-1007)

4-308. Compliance with Civil Rights Act. (1) The Title VI Compliance Manual for the Town of Selmer shall be adopted in its entirety by reference.

(2) The following statement shall be deemed as the Town of Selmer's title VI policy statement: "It is the policy of the Town of Selmer to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (as added by Ord. #596, Aug. 2010)

CHAPTER 4

TORT LIABILITY

SECTION

4-401. Town exempt from "Tennessee Governmental Tort Liability Act."

4-401. Town exempt from "Tennessee Governmental Tort Liability Act." The Town of Selmer hereby exempts itself from the provisions of title 23, chapter 33, Tennessee Code Annotated, being the Tennessee Governmental Tort Liability Act, in accordance with and as authorized by section 29-20-103, Tennessee Code Annotated. (Code of 1977, § 1-1101)

CHAPTER 5

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

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

4-501. Title. This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program Plan for the employees of the Town of Selmer. (Code of 1977, § 1-1301, as replaced by Ord. #501, Oct. 2003)

4-502. Purpose. The Town of Selmer, 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. (Code of 1977, § 1-1302, as replaced by Ord. #501, Oct. 2003)

4-503. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Selmer shall apply to all employees of each administrative department, commission, board, division, or other agency of the Town of Selmer whether part-time or full-time, seasonal or permanent. (Code of 1977, § 1-1303, as replaced by Ord. #501, Oct. 2003)

4-404. Standards authorized. The occupational safety and health standards adopted by the Town of Selmer are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.[1] (as added by Ord. #501, Oct. 2003)

4-405. Variances from standards authorized. The Town of Selmer 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 Town of Selmer shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the city shall be deemed sufficient notice to employees. (as added by Ord. #501, Oct. 2003)

4-406. Administration. For the purposes of this chapter, David Dillingham 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 Town of Selmer. The director shall develop a plan of operation for

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[1]State law reference

Tennessee Code Annotated, title 50, chapter 3.

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. #501, Oct. 2003)

4-407. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Town of Selmer. (as added by Ord. #501, Oct. 2003)

CHAPTER 6

TRAVEL REIMBURSEMENT REGULATIONS

SECTION
4-601. Purpose.
4-602. Enforcement.
4-603. Authorized traveler.
4-604. Reimbursable expenses.
4-605. Personal vehicle.
4-606. Travel advance.
4-607. Reimbursement documentation.
4-608. Reimbursement forms.
4-609. Reimbursement.
4-610. Misuse.

4-601. Purpose. The purpose of this chapter is to bring the city into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expenses regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law." (as added by ord. #424, Nov. 1993)

4-602. Enforcement. The mayor or his or her designee shall be responsible for the enforcement of these travel regulations. (as added by ord. #424, Nov. 1993)

4-603. Authorized traveler. In the interpretation and application of these regulations the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under these regulations. (as added by ord. #424, Nov. 1993)

4-604 Reimbursable expenses. Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; conventions; lodging; meals; registration fees for conferences,

conventions, and seminars; and other actual and necessary expenses related to official business as determined by the mayor.

Entertainment expenses to be eligible for reimbursement must be authorized by the mayor. (as added by ord. #424, Nov. 1993)

4-605. Personal vehicle. Employees should use city vehicles when possible. When personal vehicles must be used, the city will pay a mileage rate for the uses of the vehicle. Miles for reimbursement will be the most direct route from origin to destination and back and necessary vicinity related travel.

It shall be the responsibility of the traveler to provide adequate insurance to hold harmless the city for liability from the use of the private vehicle.

Travelers shall not be reimbursed for automotive repair or breakdowns when using their personal vehicles.

Mileage within the city is not normally considered eligible expenses for reimbursement.

Fines for traffic violations shall not be reimbursed by the city. (as added by ord. #424, Nov. 1993)

4-606. Travel advance. For special travel, authorized travelers can request a travel advance by completing Authorization For Travel.

Travel advance forms are not considered documentation of travel expenses. If travel advances exceed documented, the traveler must immediately reimburse the city. (as added by ord. #424, Nov. 1993)

4-607. Reimbursement documentation. All request for reimbursement must be supported by receipts from the vendor. Reasonable tips and gratuities included on the receipt by the vendor are reimbursable. (as added by ord. #424, Nov. 1993)

4-608. Reimbursement forms. Prior to reimbursement the authorized traveler must complete and sign the city's approved expense reimbursement form.

If the city provided a travel advance, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances indicated. The balance due the traveler or the refund due the city should be clearly shown below the total claim on the form or in a cover memo attached to the front of the form. (as added by ord. #424, Nov. 1993)

4-609. Reimbursement. The rate for reimbursement for the use of a personal vehicle by an authorized traveler shall be the same rate paid to state employees authorized by the travel regulations of the State of Tennessee.

All other travel expenses to qualify for reimbursement must be directly related to the conduct of the city business for which travel was authorized and be actual, reasonable and necessary.

Expenses considered excessive shall not be reimbursed. (as added by ord. #424, Nov. 1993, as amended by Ord. #530, May 2006)

4-610. Misuse. Fraudulent use of city travel funds is subject to legal action for recovery.

Violation of travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees. (as added by ord. #424, Nov. 1993)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER
1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. LOCAL SALES TAX.

CHAPTER 1

MISCELLANEOUS

SECTION
5-101. Official depository for town funds.
5-102. Public advertisement and competitive bidding.

5-101. Official depository for town funds. (1) The following financial institutions are the official depositories of the Town of Selmer:

BancorpSouth;
Home Banking Company;
The Bank of McNairy County;
Regions Bank;
CB&S Bank.

(2) In the event that none of the above listed banking institutions offer competitive deposit rates to the Town of Selmer, or in the event that it is not to the economic advantage of the Town of Selmer to use any of these above named financial institutions, then the Local Government Investment Pool is designated as an alternate official depository for the Town of Selmer. (Code of 1977, § 6-101, as amended by Ord. #531, May 2006, and Ord. #632, Feb. 2014 ***Ch8_06-29-23***)

5-102. Public advertisement and competitive bidding. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of five thousand dollars ($5,000.00) except for those purchases specifically exempted from advertisement and bidding by state law. (as added by Ord. #533, May 2006)

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[1]See section 13 of the charter for Treasurer's Duties.

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. Taxes levied by the municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. (Code of 1977, § 6-201)

5-202. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes. (Code of 1977, § 6-202)

CHAPTER 3

PRIVILEGE TAXES

SECTION
5-301. Tax levied.
5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (title 67, chapter 58, Tennessee Code Annotated) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the Town of Selmer at the rates and in the manner prescribed by the said act. Provided that, the minimum payment of tax for exterminators and contractors other than public road contractors shall be fifteen (15) dollars per annum. The proceeds of such tax shall be apportioned to the various county funds according to the subdivision of the property tax levy or accrue to the general fund. (Code of 1977, § 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 such applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (Code of 1977, § 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 the appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in chapter 3 of title 57, Tennessee Code Annotated. (Code of 1977, § 6-401)

CHAPTER 5

LOCAL SALES TAX

SECTION
5-501. Tax levied.
5-502. When tax effective.
5-503. Collection of tax.
5-504. Suits for recovery of tax illegally collected.
5-505. Use of revenue.

5-501 Tax levied. As authorized by Chapter 329, Public Acts of 1963, there is levied a tax in the same manner and on the same privilege subject to the "Retailer's Sales Tax Act" under Chapter 6, Title 67, Tennessee Code Annotated, as the same may be amended, which are exercised in Selmer, Tennessee. The tax is levied on all such privileges at a rate of one-half (½) of the rates levied in the Retailer's Sales Tax Act codified in Chapter 6, Title 67, Tennessee Code Annotated. Provided the tax shall not exceed $5 on the sale or use of any single article of personal property, and there is excepted from the tax levied by this chapter the sale, purchase, use, consumption or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil. Penalties and interest for delinquencies shall be the same as provided in Chapter 6, Title 67, Tennessee Code Annotated. (Code of 1977, § 6-501)

5-502. When tax effective. If a majority of those voting in the election required by Section 5 of Chapter 329, Public Acts of 1963, vote for the ordinance, collection of the tax levied by this chapter shall begin on the first day of the month occurring 30 or more days after the county election commission makes its official canvass of the election returns.[1] (Code of 1977, § 6-502)

5-503. Collection of tax. It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, said determination being evidenced by local option sales and use tax rules and regulations heretofore promulgated by the department of revenue, the department shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The Town of Selmer is hereby authorized to contract with the department of revenue for the collection of the tax by the department, and to provide in said contract that the

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[1]Approved July 3, 1969. See the report of the County Board of Election Commissioners of record in the recorder's office. See also resolution adopted July 11, 1969.

department may deduct from the tax collected a reasonable amount or percentage to cover the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of said tax. (Code of 1977, § 6-503)

5-504. Suits for recovery of tax illegally collected. In the event the tax is collected by the department of revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the Mayor of the Town of Selmer, Tennessee. (Code of 1977, § 6-504)

5-505. Use of revenue. The revenue derived from the levy of a tax in the same manner and on the same privileges subject to the "Retailer's Sales Tax Act" under Chapter 6, Title 67, Tennessee Code Annotated, as the same may be amended, which are exercised in Selmer, Tennessee; said tax being levied on all such privileges at a rate of one-half (½) of the rates levied in the "Retailer's Sales Tax Act," is designated for the street improvement and the maintenance fund. (Code of 1977, § 6-505)

TITLE 6

LAW ENFORCEMENT

CHAPTER
1. LAW ENFORCEMENT.
2. WORKHOUSE.

CHAPTER 1

LAW ENFORCEMENT[1]

SECTION
6-101. Policemen to be bonded.
6-102. Policemen to be subject to mayor's orders.
6-103. Policemen to see that law and order is maintained, etc.
6-104. Policemen to wear uniforms and be armed.
6-105. When policemen to make arrests.
6-106. Policemen may require assistance in making arrests.
6-107. Unlawful to resist or interfere with an officer.
6-108. Disposition of persons arrested.

6-101. Policemen to be bonded. All policemen shall be covered by a blanket faithful performance bond in the amount of $1,000.00. (Code of 1977, § 1-501)

6-102. Policemen subject to mayor's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the mayor may officially issue. (Code of 1977, § 1-502)

6-103. Policemen to see that law and order is maintained, etc. The policemen of the town shall see that law and order is maintained within the town. They shall see to the patrol of the town and shall assist the town court during the trial of cases. The policemen shall also promptly serve all legal process issued by the town court. (Code of 1977, § 1-503)

6-104. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the mayor may prescribe and shall carry a service pistol and billy club at all times while on duty. (Code of 1977, § 1-504)

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[1]See sections 8 and 14, for Compensation, Appointment and Duties of the Town Marshal.

6-105. When policemen to make arrests.[1] Unless otherwise authorized or directed in this code or other applicable law, arrests of the person shall be made by policemen in the following cases:

(1) Whenever they are in possession of a warrant for the arrest of the person.

(2) Whenever an alleged offense has been committed in the officer's presence by the person.

(3) Whenever an offense has been in fact committed and the officer has reasonable and probable cause to believe the person has committed it. (Code of 1977, § 1-505)

6-106. Policemen may require assistance in making arrests. It shall be unlawful for any male person to willfully refuse to aid a policeman in making a lawful arrest when such person's assistance is reasonably requested and necessary. (Code of 1977, § 1-506)

6-107. Unlawful to resist or interfere with an officer. It shall be unlawful for any person to resist any officer making a lawful arrest or to otherwise interfere or attempt to interfere with or to incite, or attempt to incite others to interfere with, any officer while the latter is in the apparent discharge of his duties. (Code of 1977, § 1-507)

6-108. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested for any offense other than one involving drunkenness he will be brought before the town court for immediate trial or allowed to post bond in such sum as may be prescribed by the town court. When the arrested person is drunk or when the town court is not immediately available and the alleged offender is not able to post the required bond he shall be confined. (Code of 1977, § 1-508)

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[1]For provisions with respect to traffic citations, see title 15.

CHAPTER 2

WORKHOUSE[1]

SECTION
6-201. Workhouse designated.
6-202. Inmates to be worked.
6-203. Compensation of inmates.

6-201. Workhouse designated. The McNairy County jail and/or the Madison County workhouse are hereby designated as the town workhouse. (Code of 1977, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (Code of 1977, § 1-602)

6-203. Compensation of inmates. Workhouse inmates shall be allowed five dollars ($5.00) per day as credit toward payment of the fines and costs assessed against them. (Code of 1977, § 1-603)

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[1]For provisions in the charter with respect to the workhouse, see sec. 17.

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER
1. MISCELLANEOUS.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIREWORKS.
5. FIRE HYDRANTS.

CHAPTER 1

MISCELLANEOUS

SECTION
7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be as follows: The General Business District as shown on the zoning map of Selmer, Tennessee. (Code of 1977, § 7-101)

CHAPTER 2

FIRE CODE[1]

SECTION
7-201. Fire code adopted.
7-202. Modifications.
7-203. Definition of "municipality."
7-204. Gasoline trucks.
7-205. Enforcement.
7-206. Variances.
7-207. Violations and penalties.

7-201. Fire code adopted. Pursuant to the 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 and explosion in the Town of Selmer, Tennessee, the NFPA Fire Code, (NFPA No. 1,[2] 2018 edition), as recommended by the National Fire Protection Association, is hereby adopted by reference and included as part of this code. Pursuant to the requirement of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the NFPA Fire Code shall be filed with the town recorder and be available for public use and inspection. The NFPA Fire Code is adopted and incorporated as fully as if set out in length herein and shall be controlling within the corporate limits of Selmer. (Code of 1977, § 7-201, as replaced by Ord. #497, Feb. 2003, Ord. #550, March 2007, and Ord. #608, Dec. 2011, and Ord. #680, June 2020 ***Ch8_06-29-23***)

7-202. Modifications. The NFPA Uniform Fire Code adopted in § 7-201 above is modified by adding to there from section 3.2.2, titled "Authority Having Jurisdiction (AJH)"; by adding; AJH for this code will be the Fire Chief of the Selmer Fire Department. (Code of 1977, § 7-202, as replaced by Ord. #497, Feb. 2003, Ord. #550, March 2007, and Ord. #608, Dec. 2011)

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 Selmer, Tennessee. (Code of 1977, § 7-203, as replaced by Ord. #497, Feb. 2003, Ord. #550, March 2007, and Ord. #608, Dec. 2011)

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

[2]Copies of this code are available from the National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy, MA 02269-9101.

7-204. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline. (Code of 1977, § 7-204, as replaced by Ord. #497, Feb. 2003, Ord. #550, March 2007, and Ord. #608, Dec. 2011)

7-205. Enforcement. The fire prevention code herein adopted in § 7-201 shall be enforced by the chief of the fire department or his/her designee. He shall have the same powers as the state fire marshal and is designated as the authority having jurisdiction. (Code of 1977, § 7-205, as replaced by Ord. #497, Feb. 2003, Ord. #550, March 2007, and Ord. #608, Dec. 2011)

7-206. 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. (Code of 1977, § 7-206, as replaced by Ord. #497, Feb. 2003, Ord. #550, March 2007, and Ord. #608, Dec. 2011)

7-207. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made there under; or build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable by a penalty of up to fifty ($50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense in which the penalty will multiply per day and a separate citation for this offense is not required. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions. (Code of 1977, § 7-207, as replaced by Ord. #497, Feb. 2003, Ord. #550, March 2007, and Ord. #608, Dec. 2011)

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT[1]

SECTION

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

7-301. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and aldermen of the Town of Selmer. All apparatus, equipment, and supplies shall be purchased by or through the Town of Selmer and shall be and remain the property of the town. The fire department shall be composed of a chief appointed by the board of mayor and aldermen and such number of physically-fit subordinate officers and firemen as the chief shall appoint. (Code of 1977, § 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. (Code of 1977, § 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. (Code of 1977, § 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

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[1]For special privileges with respect to traffic, see title 15, in this code.

the mayor once each month, and at the end of the year a detailed annual report shall be made. (Code of 1977, § 7-304)

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. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the board of mayor and aldermen.

All personnel of the fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (Code of 1977, § 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. (Code of 1977, § 7-306)

7-307. Equipment to be used only within corporate limits generally. No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless such fire is on town owned property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by or located within the town as to endanger such town property or unless expressly authorized in writing by the board of mayor and aldermen. (Code of 1977, § 7-307)

7-308. Chief to be assistant to state officer. Pursuant to requirements of section 68-13-208 of the Tennessee Code Annotated, the chief of the fire department is designated as an assistant to the state commissioner of insurance and banking and is subject to all the duties and obligations imposed by chapter 13 of title 68 of said Tennessee Code Annotated, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (Code of 1977, § 7-308)

CHAPTER 4

FIREWORKS

SECTION

7-401. Definitions.
7-402. Permits and permit fees.
7-403. Permit revocation.
7-404. Permissible fireworks.
7-405. Storing and structures.
7-406. Limitations on structures.
7-407. Location of fireworks outlets.
7-408. Parking for retail fireworks sales site.
7-409. Additional standards for fireworks retailers.
7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks.
7-411. Limited time period to use fireworks.
7-412. Exemptions.
7-413. Violations and penalty.

7-401. Definitions. (1) As used in this chapter, unless the content otherwise requires:

(a) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of:

(i) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks," or "Class C Common Fireworks";

(ii) Theatrical and novelty, classified as 1.4S; or

(iii) Display fireworks, classified as 1.3G, as set forth in the U.S. Department of Transportation's (D.O.T.) Hazardous Materials Regulation, title 49, Code of Federal Regulations (C.F.R.), parts 171-180.

(iv) Exceptions:

(A) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with D.O.T. regulations, 49 C.F.R. 173.100(p), and packed and shipped according to those regulations;

(B) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.

(C) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as designed to produce audible effects.

(b) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit" means the written authority of the Town of Selmer issued under the authority of this section.

(d) "Person" means any individual, firm, partnership, or corporation.

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

(f) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, copartnership, or one (1) or more individual(s)

(g) "State fire marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated, § 68-104-101, et seq.

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (Ord. #461, June 1998, as replaced by Ord. #603, Sept. 2011)

7-402. Permits and permit fees. (1) It is unlawful for any person to sell or to offer for sale in the Town of Selmer any item of fireworks without first having secured a state fire marshal permit and a permit issued by the Town of Selmer.

(a) Permits are not transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 9 or December 21 through January 5.

(c) The permit fee for retail permits is one thousand dollars ($1,000.00) for the summer period and five hundred dollars ($500.00) for the winter period.

(d) The fee for public displays using Special Display (1.3G) fireworks is five dollars ($5.00).

(e) Schools, wedding groups, businesses, and civic clubs that desire to have a 1.3G Special Display or 1.4G Consumer Fireworks Display may obtain a permit to use fireworks for any time of the year by paying a five dollar ($5.00) permit fee and obtaining a permit from the town.

(2) A permit to sell fireworks in the Town of Selmer must be obtained at least one (1) week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of applicant.

(b) The applicant must be the natural person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the state fire marshal permit.

(d) The applicant is liable for all violations of this chapter by persons under his/her supervision.

(3) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(6) Mobile vendors are not permitted.

(7) Flashing signs are not permitted.

(8) One (1) double-faced sign is permitted; however, each sign face may not exceed thirty-six (36) square feet.

(9) The application must contain evidence that general liability insurance has been obtained by applicant naming the Town of Selmer as additional insured for at least two million dollars ($2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(10) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(11) Applicant shall pay one hundred dollar ($100.00) cleanup deposit per location, which shall be refunded after the fireworks season or used by the town to clean up the retail fireworks site if needed.

(12) After the application has been submitted and approved, the codes enforcement officer shall inspect the site for compliance with applicable codes and ordinances. (Ord. #461, June 1998, as replaced by Ord. #603, Sept. 2011)

7-403. Permit revocation. (1) The codes enforcement officer and/or fire official may revoke any permit upon failure of retailer to correct any of the following conditions within thirty six (36) hours after the codes enforcement officer gives written notice.

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the codes enforcement officer.

(b) When the permittee's application contains any false or untrue statements.

(c) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(d) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(2) When any activities of the permittee constitute a distinct hazard to life or property, the codes enforcement officer or fire official, or both, may revoke the permit immediately. (as added by Ord. #603, Sept. 2011)

7-404. Permissible fireworks. (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the Town of Selmer, except as provided in this chapter, any "fireworks" as defined in § 7-401(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G Consumer Fireworks; or

(b) Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

(2) Any display using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician. (as added by Ord. #603, Sept. 2011)

7-405. Storing and structures. No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks--No Smoking" in letters not less than four inches (4") high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one (1) pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use. (as added by Ord. #603, Sept. 2011)

7-406. Limitations on structures. Tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No structure from which fireworks are sold may exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and

is constructed of non-flammable materials such as metal or concrete block. (as added by Ord. #603, Sept. 2011)

7-407. Location of fireworks outlets. Fireworks sales structures must be no closer than sixty feet (60') from any occupied building. Fireworks sales are permissible only on commercial/industrial property as approved by the planning department and the sales structure must be located a minimum of forty-five feet (45') from the right-of-way. Any fireworks sales structure must be at least one hundred fifty feet(150') from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of one hundred twenty five thousand (125,000) square feet. (as added by Ord. #603, Sept. 2011)

7-408. Parking for retail fireworks sales site. The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street and right-of-way customer parking . In addition, the retail fireworks site must provide for an on-site turnaround area so that backing of vehicles onto the street will not be necessary. (as added by Ord. #603, Sept. 2011)

7-409. Additional standards for fireworks retailers. (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred and fifty feet (750') from other similar uses. This distance shall be measured in a straight line from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location. (as added by Ord. #603, Sept. 2011)

7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks. It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale. It is unlawful to ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle. It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times, places, or in any manner that endangers other persons. It is

unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the Town of Selmer Fire Department, except for public (and/or group) displays for which permits have been granted. (as added by Ord. #603, Sept. 2011)

7-411. Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods.

(1) July 1 through July 4. The permissible hours are from 10:00 A.M. to 10:30 P.M. except for July 3 when permissible hours are from 10:00 A.M. to 11:30 P.M.

(2) December 31 and January 1. The permissible hours from 8:00 P.M. on December 31 to 1:00 P.M. on January 1. (as added by Ord. #603, Sept. 2011)

7-412. Exclusions. Nothing in this chapter prohibits:

(1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fusees, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(7) Supervised displays of fireworks as provided for in this chapter. (as added by Ord. #603, Sept. 2011)

7-413. Violations and penalties. Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars ($50.00) per violation. (as added by Ord. #603, Sept. 2011)

CHAPTER 5

FIRE HYDRANTS

SECTION
7-501. Fire hydrants.

7-501. Fire hydrants. (1) In accordance with Tennessee's Division of Water Supply Rule 1200-5-1-17(18) and NFPA 291, the Town of Selmer will adopt this chapter on installation and usage of fire hydrants for fire protection. This chapter will be applied to all hydrants within Selmer Urban Growth Boundary.

(2) All future water mains and f ire hydrants shall be installed in such a manner to provide adequate fire flows. All future water mains shall be at least six inches in diameter. However, larger mains shall be installed when necessary to insure that a minimum of 500 gallons per minute (gpm) at 20 pounds per square inch (psi) residual pressure is available at all fire hydrants. Additional gallons per minute above the minimum 500 gpm shall be made available if the Needed Fire Flow to structures in the area demands such additional flows. The fire chief will determine the Needed Fire Flow for each structure when necessary. Fire hydrants shall be installed in such a manner that there shall be a fire hydrant within 750 feet of the front entrance of every structure of more than 300 square feet and within 300 feet of the front entrance if the structure contains more than 5000 square feet. The distance to the fire hydrant shall be measured along the route that would be accessible to the fire department to lay fire hose from the hydrant to the building.

(3) Present fire hydrants, and any future hydrants, that currently exist on mains that will not flow 500 gpm at 20 psi. will not be used by a fire department unless fire department operations are needed in providing immediate and imminent suppression of fire and/or in a threat of life safety. These hydrants will be painted red in color, or may remain manufacture red, to indicate to firefighters that it is not capable in providing 500 gpm at 20 psi.. At no time will connection to any Selmer Utilities fire hydrant be done with a non-collapsible (hard suction) hose. All fire department pumpers will use collapsible (soft suction) hoses when connection to hydrants is needed. This chapter will be signed by all fire chiefs who departments use Selmer Utilities hydrants.

(4) All hydrants will be color coded as to comply with Division of Water Supply Rule 1200-5-1-17(18). Color coding will be as follows:

Green = Hydrants flowing 1000 gallons per minute or more.

Orange= Hydrants flowing between 501 to 999 gallons pre minute.

Red = Hydrants flowing 500 gallons per minute or less.

A copy of flow testing records will be provided to the Selmer Fire Chief on annual bases. (as added by Ord. #511, Feb. 2005)

TITLE 8

ALCOHOLIC BEVERAGES[1]

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

CHAPTER 1

INTOXICATING LIQUORS

SECTION
8-101. Definitions.
8-102. Federal, state and local regulations applicable.
8-103. Manufacture prohibited.
8-104. Granting of wholesaler's license; wholesalers located outside town conducting business in town.
8-105. Sale by licensee legalized.
8-106. Qualifications of applicant for certificate.
8-107. Application for certificate.
8-108. Misrepresentation or concealment of material facts.
8-109. General restrictions on issuance of certificates.
8-110. Application fee.
8-111. Miscellaneous restrictions on licensees and their employees.
8-112. License deemed a privilege; revocation or suspension.
8-113. Display of license.
8-114. Location of liquor stores in liquor and zoning districts.
8-115. Transferability of license.
8-116. Sales to underage persons and persons visibly intoxicated prohibited.
8-117. Consumption on premises of liquor store.
8-118. Public drinking and display prohibited.
8-119. Inspection fee.
8-120. Funds derived from inspection fees.
8-121. Violations of federal and state regulations by licensee deemed violation of chapter.
8-122. Vintners and wineries excluded.

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[1]Municipal code references
Drinking beer on streets, etc.: see title 11, section 11-228.
Minors in beer places, etc.: see title 11, section 11-222.

8-101 Definitions. Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise. Words importing the masculine gender shall inciude the feminine and the neuter, and the singular shall include the plural.

(1) "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits or wine and capable of being consumed by a human being, other than patented.
medicine, beer or wine, where either of the latter has an alcoholic content of one percent (1%) by weight or less.

(2) "Applicant" means the party applying for a certificate or a license.

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

(4) "Board of mayor and aldermen" or "board" means the Board of Mayor and Aldermen of the Town of Selmer.

(5) "Bottle" means any container, vessel, bottle or other receptacle used for holding any alcoholic beverage. "Unsealed bottle" means a bottle with the original seal, cork, cap or other enclosing device either broken or removed, or on which the federal revenue strip stamp has been broken.

(6) "Certificate" means the certificate provided for in Tennessee Code Annotated, title 57, chapter 3 in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(7) "Corporate limits" means the corporate limits of the town as the same now exist or may hereafter be changed.

(8) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery, either by himself or by his agent.

(9) "Distillery" means and includes any place or premises wherein any alcoholic beverage is manufactured for sale.

(10) "Establishments dealing in alcoholic beverages." Any business or commercial establishment (whether open to the public at large or where entrance is limited by cover charge or membership requirement) including those licensed by the state for sale and/or service of alcoholic beverages, and any bottle club; hotel; motel; restaurant; night club; country club; cabaret; meeting facility utilized by any religious, social, fraternal; or similar organization; business or commercial establishment where any substance, element, product or article is sold, dispensed, served or provided with the knowledge, actual or implied, that the same will be or is intended to be mixed, combined with or drunk in connection or combination with an alcoholic beverage on the premises of said business or commercial establishment; or business or commercial establishment where the consumption of alcoholic beverages is permitted. A private residence, whether permanent or temporary in nature, is not an establishment dealing in alcoholic beverages.

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

(12) "Inspection fee" means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(13) "License" means a license issued by the state under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the town.

(14) "License fee" means the fee a licensee is required by this chapter to pay at or prior to the time of the issuance of a license.

(15) "Licensee" the holder of a license.

(16) "Liquor store" means the building or the part of a building where a licensee conducts any of the business authorized by his license.

(17) "Manufacturer" mean and includes a distiller, vintner and rectifier of alcoholic beverages. "Manufacture" means and includes distilling, rectifying and operating a winery or any device for the production of alcoholic beverages.

(18) "Person" shall mean and include an individual, partner, association or corporation.

(19) "Rectifier" means and includes any person who rectifies, purifies or refines any alcoholic beverage by any process other than as provided for on distillery premises, and also any person who, without rectifying, purifying or refining an alcoholic beverage, shall, by mixing an alcoholic beverage with any other material, thereby manufacture any imitation thereof, or who compounds an alcoholic beverage for sale under the name of: whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name.

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

(21) "Sale" or "sell" means and includes the exchange or barter of alcoholic beverages, and also any delivery made otherwise than gratuitously of alcoholic beverages; and soliciting or receiving of an order for alcoholic beverages; and the keeping, offering or exposing alcoholic beverages for sale.

(22) "State" means the State of Tennessee.

(23) "State alcoholic beverage commission" means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including without limitation the provisions of Tennessee Code Annotated, title 57, chapter 1.

(24) "State liquor retailer's license" means a license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, title 57, chapter 1) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

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

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

(27) "Town" means the Town of Selmer, Tennessee.

(28) "Town recorder" means the town recorder of the town.

(29) "Vintner" means any person who owns occupies, carries on, works, conducts or operates any winery, either by himself or by his agent.

(30) "Wholesale sale or sale at wholesale" means a sale to any person for purposes of resale.

(31) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57, chapter 1.

(32) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including also champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced or unless designated as an artificial or imitation wine.

(33) "Winery" means and includes any place or premises wherein wine is manufactured or brandies are distilled as the byproduct of wine or where cordials are compounded. (Code of 1977, § 2-101, modified, as amended by ord. #411, May 1992, and replaced by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-102. Federal, state and local regulations applicable. It shall be unlawful for any person either to engage in the business of selling, storing, transporting or distributing any alcoholic beverage within the corporate limits of the town, or to sell, store, transport, distribute, purchase or possess any alcoholic beverage within the corporate limits of the town, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (as added by ord. #411, May 1992, and replaced by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-103. Manufacture prohibited. It shall be unlawful for any person to manufacture any alcoholic beverage within the corporate limits of the town. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-104. Granting of wholesaler's license; wholesalers located outside town conducting business in town. (1) Unless hereafter authorized by an ordinance of the town, no wholesaler's license shall be granted to any person for the operation within the corporate limits of the town of any business for the sale at wholesale of any alcoholic beverage.

(2) Any wholesaler, whose business is located outside the town and who holds a valid state license, and who has paid to the town all privilege taxes and fees applicable to such wholesale business, may sell at wholesale any alcoholic beverage to a licensee in the town, and such licensee may purchase any

alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes and by this chapter. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-105. Sale by licensee legalized. It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store within the corporate limits, provided such sales are made in compliance with applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-106. Qualifications of applicant for certificate. To be eligible to apply for or to receive a certificate, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license. If the applicant is a corporation, then such corporation shall be incorporated under the laws of the state. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-107. Application for certificate. (1) Each applicant for a certificate shall file with the town recorder a completed application, on a form to be provided by the town recorder, which shall contain the following information:

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

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

(c) The address of the liquor store to be operated under the license, the zoning applicable to such location, and a property tax map showing the location of the building;

(d) The names and addresses of at least three (3) residents of the county who have known each applicant for at least two (2) years;

(e) The agreement of each applicant to comply with the state statutes, federal statutes, this chapter and with the state rules and regulations with reference to the sale of alcoholic beverages; and

(f) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within ninety (90) days after the license is granted to such applicant.

(2) The application form shall be accompanied by a copy of each application and each questionnaire form and other material to be filed by the applicant with the state alcoholic beverage commission in connection with this same application.

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

(4) If at any time the applicable state statutes shall be changed so as to dispense with the requirement of a certificate, no original or renewal license shall be issued until an application in the same form has been filed with the town recorder.

(5) The town recorder shall review each application, note any apparent questions, errors and insufficiencies and submit same to the board of mayor and aldermen for consideration and action. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-108. Misrepresentation or concealment of material facts. A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the town recorder shall forthwith report such violation to the state alcoholic beverage commission together with the request that the state alcoholic beverage commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-109. General restrictions on issuance of certificates. (1) No certificate shall be issued unless a license issued on the basis thereof to such applicant can be exercised without violating any provision of this chapter, the state statutes, the state rules and regulations or the federal statutes.

(2) No certificate shall be issued to a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the legal entity with which he is connected files application therefor; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and provided, further, that in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him as an employee, and such convicted felon shall forthwith divest himself of all interest in the business of the licensee, either as a partner, officer, director, stockholder or otherwise.

(3) No certificate shall be issued to any person who, within ten (10) years preceding application therefor, shall have been convicted of any offense under the state statutes, state rules and regulations, the federal statutes, this chapter or of the statutes of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing or otherwise handling of alcoholic beverages, or who has, during said period, been engaged in business alone or with others in violation of any of the state statutes, state rules and regulations, the federal statutes or the laws, rules and regulations of any other state, county or city of the United States; and provided

further that in case of any such conviction occurring after a license has been issued and received, it shall be recommended that the said license shall immediately be revoked.

(4) No certificate shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county; and it shall be unlawful for any such person to have any interest in the liquor retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(5) The town recorder shall not sign and/or certify any certificate for any applicant until:

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

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

(c) The application has been considered at a meeting of the board and approved by the vote of at least three (3) members thereof. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-110. Application fee and application filing. A nonrefundable fee of three hundred fifty dollars ($350.00) shall accompany the application for a certificate. An application must be received by the 15th of the month preceding the board of mayor and aldermen meeting at which the application will be considered to allow the town authorities time to conduct the proper background checks. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-111. Miscellaneous restrictions on licensees and their employees.

(1) Manufacturer's, wholesaler's interest in licensee's rental or revenues. It shall be unlawful for any manufacturer or wholesaler to have any interest in the licensee's rental or revenues.

(2) Disclosure of interest in business. It shall be unlawful for any person to have ownership in, or to be a partner in or a stockholder, director or officer, or to participate, either directly or indirectly, in the profits of, any business for which a license is granted hereunder, unless his interest in said business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall have been fully disclosed in writing by supplement to the application filed with the town recorder and approved in writing by the board before such interest is acquired. Where such interest is owned by any person on or before the application for a license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of the required disclosure

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

(3) Employment of persons under eighteen (18); permitting minors on premises. No licensee shall employ in the storage, sale or distribution of alcoholic beverages to a person under the age of eighteen (18) years, and it shall be unlawful for any licensee to permit a minor in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(4) Employment of persons convicted of felony involving moral turpitude; discharge of convicted employee. No licensee shall employ in the sale of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted, he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

(5) Soliciting, receiving orders. No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor or representative for the purpose of receiving an order from a consumer for any alcoholic beverage at the residences or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensee at the licensee's premises.

(6) Deleted.

(7) Location of liquor stores on ground level; requirements for ingress and egress. Liquor stores shall be located in the town on the ground floor level only. Each liquor store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, however, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into snch lobby so long as said lobby is open to the public.

(8) Additional provisions applicable if licensee a corporation. If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in, or who is an officer or director in, such corporate licensee shall have any interest as an owner, stockholder, officer, director or otherwise in any business licensed to engage in the sale at wholesale or retail of alcoholic beverages in the state or in any other place;

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

(9) Recorder's duty upon licensee's failure to operate during normal business hours. If any licensee, for any reason, shall not be actively engaged in and keep open its liquor store during normal business hours for a period of fifteen (15) work days in any calendar year, then the town recorder shall forthwith report such fact to the state alcoholic beverage commission and take such other action as may appear necessary or proper to have the license of such licensee revoked.

(10) Management of liquor store. Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual, or by a partner or corporate officer, if the licensee is a partnership or corporation. In every case where any alcoholic beverage is sold by a licensee that is either a partnership or a corporation, the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the town recorder. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***, and amended by Ord. #684, Nov. 2020 ***Ch8_06-29-23***)

8-112. License deemed a privilege; revocation or suspension. (1) The issuance of a license hereunder shall vest no property rights in the licensee, and such license shall be a privilege subject to revocation or suspension as provided by the state statutes and state rules and regulations.

(2) In the event of any violation of the state statutes, state rules and regulations, federal statutes or of the provisions of this chapter by a licensee, or by any person for whose acts the licensee is responsible, then the mayor shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission or its successor and shall take such action before the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-113. Display of license. The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-114. Location of liquor stores in liquor and zoning districts. (1) A liquor store shall be located within a zoning district classified as either a B-1, B-2 and B-M District, as provided in the Zoning Ordinance of the Town of Selmer, Tennessee, and as shown on the Zoning Map of Selmer, Tennessee, as in effect on the date of any application for a license hereunder.

(2) All provisions of the Zoning Ordinance of the Town of Selmer, Tennessee, including but not limited to those provisions relating to the required yard area, off-street loading and unloading of vehicles and off-street parking,

which are applicable to the zoning district in which a liquor store is authorized to operate hereunder, shall be complied with by each licensee as a condition precedent to the operation of any liquor store authorized by this chapter. No radios, televisions, record players, pinball machines or other amusement devices and no seating facilities other than for employees shall be permitted in any liquor store. No political advertising of or for any candidate or party by poster, card, matches or otherwise and no campaign material shall be placed, displayed or dispensed on the premises of any liquor store. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-115. Transferability of license. A licensee shall not sell, assign, give, pledge or otherwise transfer his license or any interest therein to any other person. No license shall be transferred from the licensee by operation of law through any proceedings in bankruptcy, insolvency or receivership, or by execution, garnishment or other similar proceedings. No license shall be transferred from one location to another location without the prior written approval of the board. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-116. Sales to underage persons and persons visibly intoxicated prohibited. It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to any person who is under twenty-one (21) years of age (hereinafter also referred to as "underage"), or to any person who is visibly intoxicated. It shall be unlawful for any underage or visibly intoxicated person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store, with the exception that an underage person may enter the store only when accompanied by a parent, legal guardian or spouse. It shall be unlawful for a licensee to knowingly allow any underage person, not accompanied by a parent, legal guardian or spouse, or any visibly intoxicated person to enter or remain in the licensee's liquor store or any part of the licensee's premises adjacent to the liquor store. It shall be unlawful for any underage or visibly intoxicated person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a person under twenty-one (21) years of age to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy an alcoholic beverage from any licensee. It shall be unlawful for any person to purchase any alcoholic beverage from any licensee for the purpose of selling or giving such alcoholic beverage to an underage or visibly intoxicated person. Licensee shall have the authority, but shall not be required, to obtain the identification and ascertain the age of any person upon entering a liquor store or remaining on the licensee's premises adjacent to the liquor store. Licensee shall have the authority to require any underage or visibly intoxicated person to leave the liquor store and/or licensee's premises adjacent to the liquor store. Failure by an underage or visibly intoxicated person to leave the liquor store and/or licensee's premises

adjacent to the liquor store upon licensee's request shall constitute prima facie evidence of trespass. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-117. Consumption on premises of liquor store. It shall be unlawful for any licensee to sell or furnish any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith, except as permitted under Tennessee Code Annotated, § 57-3-404(h). It shall be unlawful for any person to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store. It shall be unlawful for any licensee to allow any person to consume any alcoholic beverage in such licensee's liquor store or on the premises used by the licensee in connection therewith. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-118. Public drinking and display prohibited. It shall be unlawful for any person to drink any alcoholic beverage or visibly and openly possess, display, exhibit or show an unsealed bottle containing any alcoholic beverage in the parking area of any drive-in restaurant, or on any public street or sidewalk, or in any public park, playground, theater, stadium, school or school ground. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-119. Inspection fee. Under the authority of Tennessee Code Annotated, § 57-3-501, there is hereby levied on each licensee of the town an inspection fee in the maximum amount allowed in § 57-3-501 of the wholesale price of alcoholic beverages supplied in the town. The inspection fee shall be collected and paid to the town as prescribed by Tennessee Code Annotated, §§ 57-3-502--503. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-120. Funds derived from inspection fees. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the town. The town shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the town in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-121. Violations of federal and state regulations by licensee deemed violation of chapter. Any licensee, who in the operation of such licensee's liquor store, shall violate any federal statute, any state statute or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages shall be guilty of a violation of the provisions of this chapter. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

8-122. Vintners and wineries excluded. Notwithstanding foregoing sections of this chapter, a vintner issued a valid winery license pursuant to the

Grape and Wine Law of the State of Tennessee as set forth in Tennessee Code Annotated, § 57-3-207 is exempt from the prohibitions and requirements of this chapter 1, title 8 of the Town of Selmer Municipal Code which regulates intoxicating liquors. The activities of such vintner shall be regulated by the Grape and Wine Law of the State of Tennessee and the state regulations promulgated in accordance therewith. (as added by Ord. #653, Feb. 2016 ***Ch8_06-29-23***)

CHAPTER 2

BEER[1]

SECTION

8-201. Beer board; duties and powers.
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8-204. Requirements for beer board quorum and action.
8-205. Definitions.
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8-214. [Deleted.]
8-215. Surrender of beer license.
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8-217. Enforcement.

8-201. Beer board; duties and powers. The board of mayor and aldermen shall serve as the city beer board to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the Town of Selmer, Tennessee in accordance with the provisions of the state law and this chapter. The mayor should act as chairman unless he appoints a member of the board to serve as chairman. (Code of 1977, § 2-201, as replaced by ord. #411, May 1992)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a

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[1]Municipal code references
Minors in beer places, etc.: see title 11, chapter 2.
Tax provisions: see title 5.
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).

reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Code of 1977, § 2-202, modified, as replaced by ord. #411, May 1992)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Code of 1977, § 2-203, modified, as replaced by ord. #411, May 1992)

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. (Code of 1977, § 2-204, modified, as replaced by ord. #411, May 1992)

8-205. Definitions. 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.

As used herein, when the context permits, the word person or persons shall be deemed to include natural persons as well as firms, corporations, joint stock companies, syndicates, associations, and any other type of business organization, as well as clubs, societies, and fraternities. (Code of 1977, § 2-206, as replaced by ord. #411, May 1992)

8-206. Permit required for engaging in beer business; privilege tax.

(1) Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to T.C.A. 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars ($250). Said fee shall be in the form of a cashier's check payable to the Town of Selmer. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter.

(2) Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars ($100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive

January 1, to the Town of Selmer, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Code of 1977, § 2-207, as replaced by ord. #411, May 1992 and ord. #425, June 1994)

8-207. Beer permits shall be restrictive. (1) 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.

(2) Subject to all the other provisions of this chapter, beer permits for the retail sale of beer shall be divided into two (2) types:

(a) permits may be issued by the board to authorize the sale of beer for on premises consumption.

(b) permits may be issued by the board to retail stores for the sale of beer exclusively for carry-out, off premises consumption.

(3) 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 board. (Code of 1977, § 2-208, modified, as replaced by ord. #411, May 1992)

8-208. Issuance of permits to aliens prohibited. No permit to engage in the beer business shall be granted to any person not a citizen of the United States or a resident alien who has legal status in the United States. (Code of 1977, § 2-208, modified, as replaced by ord. #411, May 1992, and Ord. #552, April 2007)

8-209. [Deleted.] (Code of 1977, § 2-210, as replaced by ord. #411, May 1992 and further replaced by ord. #421, June 1993, and deleted by Ord. #649, May 2014 ***Ch8_06*-29-23**)

8-210. 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. (Code of 1977, § 2-211, as replaced by ord. #411, May 1992)

8-211. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

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

(2) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week or before 12:00 noon on Sunday; or on election days before and while the polls are lawfully open.

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

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

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

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

(7) Allow drunk 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) Allow gambling on his premises.

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(11) Employ any minor under nineteen (19) years of age in the sale, storage, distribution, or manufacture of beer.

(12) Fail to have his place of business cleared of all customers by 12:15 A.M. This part is applicable only to beer permit holders who have a permit for on-premises consumption in accordance with § 8-216.

(13) Allow himself or anyone working for him to consume any intoxicating beverage while on duty at the establishment.

(14) Serve or sell or allow to be served or sold any beer to any person in or on any motor vehicle or allow any person to consume beer while in a motor vehicle parked on his premises.

(15) Allow assaults, fighting, damaging property and breaches of the peace occurring on or in the premises where beer is sold.

(16) Allow the sale or possession of beer on the premises on which the state beer barrelage tax and the city and county wholesale beer tax have not been paid.

(17) Allow the sale of beer to any person at any establishment licensed for the sale of beer without said person having proof of age on that person available to be shown on request of the holder of the beer permit or his agents and employees or upon request of law enforcement personnel of the Town of Selmer, Tennessee.

(18) To organize or promote, or allow the customers of the beer permit holder to organize or promote, for profit, advertisement or for the entertainment of its customers at any business location licensed for the sale of beer any intentional display of the unclothed, naked body or any part thereof or any intentional display of the naked body or any part thereof through opaque clothing.

(19) Allow his permit to be used by another. A beer permit is not transferrable and is null and void if used by anyone other than the permit holder. (Code of 1977, § 2-212, modified, as replaced by Ord. #411, May 1992, and amended by Ord. #554, May 2007, and Ord. #637, May 2014 ***Ch8_06-29-23***)

8-212. Suspension and revocation of beer permits; civil penalty in lieu of suspension. 1. Suspension and revocation of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application, failing to pay any applicable taxes or license fee, or of violating any of the provisions of this chapter, or whenever it satisfactorily appears that the premises of any permit holder are being maintained and operated in a manner detrimental to public health, safety, or morals.

The beer board will suspend any beer permit for a period from ten (10) days to six (6) months for the first violation of this chapter and may revoke any beer permit on the second violation except for the sale of beer to minors which may cause the permit to be either suspended or revoked on the first offense. If the beer board determines that a suspension of a beer permit is the appropriate penalty for the first offense for sale of beer to minors, then such period of suspension shall be not less than thirty (30) days, it being the specific intent that a thirty (30) day suspension of a beer permit shall be the mandatory minimum penalty for such an offense. However, and notwithstanding this stated mandatory minimum, this shall not affect the right and authority of the beer board to impose a civil penalty in lieu of suspension as stated in § 8-212(2). However, no beer permit shall be revoked until a public hearing is held by the board with reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the chief of police, city judge or by any member of the beer board. The beer board shall have the power to adopt and prescribe the rules and regulations to be followed in such hearings. When a permit is revoked, the permit holder shall be ineligible to receive a permit for the sale of alcoholic beverages at any location until after the expiration of one (1) year from the date that the revocation becomes final and effective.

2. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed $1,500 for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed $1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (Code of 1977, § 2-213, as replaced by Ord. #411, May 1992 and amended by Ord. #425, June 1993, Ord. #555, May 2007, and Ord. #635, May 2014 ***Ch8_06-29-23***)

8-213. [Deleted.] (as added by ord. #411, May 1992, and deleted by Ord. #683, Nov. 2020 ***Ch8_06-29-23***)

8-214. [Deleted.] (as added by Ord. #411, May 1992, and replaced by Ord. #532, May 2006, and Ord. #571, Feb. 2008, and deleted by Ord. #609, Dec. 2011)

8-215. Surrender of beer license. Anyone who is issued a beer license by the beer board agrees that he will voluntarily return it to the city recorder in the event the permit is revoked or if his use of the permit is either voluntarily or involuntarily terminated. (as added by ord. #411, May 1992)

8-216. Permit for retail sale of beer and consumption of beer on the premises. 1. No permit for the retail sale of beer and the consumption of beer on the premises shall be issued except to restaurants and clubs. For the purposes of this section the following definitions shall apply:

a. A restaurant is defined as a public place which is kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, and which is provided and equipped with adequate and sanitary facilities and a seating capacity indoors of at least twenty-five (25) people at tables, and having a sufficient number of employees to prepare, cook and suitably serve food for the guests.

Restaurants that hold beer permits must show that seventy-five percent (75%) of their gross sales of the business are from food and shall submit annually a certified statement that they are in full compliance of this section and that seventy-five percent (75%) of the gross sales are from food. The statement should be submitted to Town of Selmer Recorder no later than January 15th of each year.

b. "Club" means a nonprofit association organized and existing under the laws of the state of Tennessee, which has been in existence and operating as a nonprofit association at least two (2) years prior to the application for a license hereunder, having at least one hundred (100) members regularly paying dues, organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any shareholder or member.

2. All persons, partnerships or corporations who have a valid permit (license) for on premises sale and consumption of beer as of the date of the third (3rd)[1] reading of this ordinance shall be exempt from the provisions of this section. The permits currently held by on premises consumption permit holders

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[1]Ord. #422 from which these provisions were taken passed third reading Sept. 14, 1993.

shall immediately and automatically expire upon the happening of any one of the following events:

a. The permit holder dies, sells, gives away, or in any way whatsoever alienates all or a part of his interest in the business.

b. The permit holder for any reason whatsoever, including the suspension of his license, ceases for more than thirty (30) days in one calendar year to operate a business for which the on premises consumption permit was issued.

c. The permit holder's license is revoked for any violation of the beer ordinance of the Town of Selmer, Tennessee. (as added by ord. #422, Sept. 1993, and amended by Ord. #438, § 1, April 1995)

8-217. Enforcement. It shall be the duty of the Selmer Police Department to enforce all provisions of this chapter, state laws, and other rules or regulations set forth for permit holders. Officers may enter upon the premises of a permit holder any time during the normal operating hours for the purpose of enforcement. (as added by Ord. #553, April 2007)

CHAPTER 3

WINE IN RETAIL FOOD STORES

SECTION
8-301. Inspection fee on retail food store wine licenses.

8-301. Inspection fee on retail food store wine licensees. Pursuant to the authority contained in Tennessee Code Annotated, § 57-3-501 et.al., there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be eight percent (8%) of the wholesale price of alcoholic beverages as defined in Tennessee Code Annotated, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee. (as added by Ord. #661, Dec. 2016 ***Ch8_06-29-23***)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER
1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. CARNIVALS, CIRCUSES, MENAGERIES, ETC.
7. PIN-BALL MACHINES.
8. CABLE TELEVISION.
9. YARD SALES.

CHAPTER 1

MISCELLANEOUS

SECTION
9-101. [Deleted.]
9-102. "Going out of business" sales.

9-101. [Deleted.] (Code of 1977, § 5-101, as deleted by Ord. #529, May 2006)

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. (Code of 1977, § 5-102)

CHAPTER 2

PEDDLERS, ETC.[1]

SECTION

9-201. Definitions.
9-202. Exemptions.
9-203. Permit required.
9-204. Application for permit.
9-205. Issuance or refusal of permit.
9-206. Loud noises and speaking devices.
9-207. Use of streets.
9-208. Hours of solicitation.
9-209. Exhibition of permit.
9-210. Policemen to enforce.
9-211. Revocation or suspension of permit.
9-212. Expiration and renewal of permit.
9-213. Violation and penalties.

9-201. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

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

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

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

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

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

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

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

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

(5) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(6) "Transient vendor" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (1977 Code, § 5-201, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-202. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1977 Code, § 5-202, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vender; solicitor or street barker or solicitor for subscriptions within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (1977 Code, § 5-203, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-204. 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 of the applicant and, in the case of transient merchants, the local address from which proposed sales would be made.

(3) A brief description of the nature of the business and the goods to be sold.

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

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

(6) A recent clear photograph approximately two inches (2") 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 properly 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; the nature of the offense; and, the punishment or penalty assessed thereof.

(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 fifty dollars ($50.00) shall be paid to the town to cover the cost of investigating the facts stated therein.

(11) Tennessee state sales tax number, if applicable. (1977 Code, § 5-204, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-205. Issuance or refusal of permit. (1) Each applicant shall be referred to the chief of police for investigation. The chief shall report his findings to the town recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory, the 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 chief's report indicates that the moral reputation and/or business responsibility are satisfactory the town recorder shall issue a permit upon the payment of all applicable privilege taxes. The town recorder shall keep a permanent record of all permits issued.

(4) In the event the permit is refused by the town recorder, the applicant may appeal the refusal to the board of mayor and aldermen. The town recorder shall mail to the address of the applicant a notification that the permit was refused. Said notice of refusal shall give notice to the applicant that they have a right to appeal the refusal to the board of mayor and aldermen. The applicant shall notify the town recorder within ten (10) days of the mailing of the notice of the intent to appeal the town recorder's decision. Upon notice of the intent by the applicant to appeal, the board of mayor and aldermen shall schedule a meeting to hear the appeal within ten (10) days. (1977 Code, § 5-205, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-206. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the Town of Selmer, upon private premises where sound of sufficient volume is emitted or produces therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purposes of attracting attention to any goods, wares, or merchandise, which such permittee proposes to sell. (1977 Code, § 5-206, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

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. For the purpose of this chapter, the judgment of a police officer, exercise in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1977 Code, § 5-207, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-208. Hours of solicitation. No permittee shall solicit money or other things of value, or to solicit the sale of goods or services before 8:00 A.M. and after 7:00 P.M. (1977 Code, § 5-208, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1977 Code, § 5-209, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1977 Code, § 210, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-211. 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 merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(2) Notice of the hearing for revocation 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/her 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 the hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1977 Code, § 5-211, as deleted by Ord. #528, May 2006, and replaced by Ord. #604, Sept. 2011)

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. (1977 Code, § 5-212, as deleted by Ord. #528, May 2006, and replaced by Ord. #604, Sept. 2011)

9-213. Violation and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. (1977 Code, § 5-213, as deleted by Ord. #528, May 2006, and replaced by Ord. #604, Sept. 2011)

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 exclusively among the members thereof, 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. (Code of 1977, § 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 or enterprise.

(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. (Code of 1977, § 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. (Code of 1977, § 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. (Code of 1977, § 5-304)

CHAPTER 4

TAXICABS[1]

SECTION

9-401. Taxicab franchise and privilege license required.
9-402. Requirements as to application and hearing.
9-403. Liability insurance or bond 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 Town of Selmer and has a currently effective privilege license. (Code of 1977, § 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

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

to either grant or refuse a franchise to the applicant. The board of mayor and aldermen 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 of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (Code of 1977, § 5-402)

9-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in title 55, chapter 12, Tennessee Code Annotated. The insurance policy or bond 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 insuror to both the insured and the recorder of the Town of Selmer. (Code of 1977, § 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. (Code of 1977, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the Town of Selmer unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical 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. (Code of 1977, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the Town of Selmer 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. (Code of 1977, § 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. (Code of 1977, § 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 chief of police. (Code of 1977, § 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 to the satisfaction of the chief of police:

(1) Makes written application to the chief of police.

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

(3) 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.

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

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

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

(7) Is familiar with the state and local traffic laws. (Code of 1977, § 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 section 9-409. (Code of 1977, § 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 Town of Selmer for the purpose of obtaining patronage for their cabs. (Code of 1977, § 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 Town of Selmer 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 unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (Code of 1977, § 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. (Code of 1977, § 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. (Code of 1977, § 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 unnecessarily blow the automobile horn; or to otherwise unreasonably disturb the peace, quiet, and tranquility of the Town of Selmer in any way. (Code of 1977, § 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. (Code of 1977, § 5-416)

CHAPTER 5

POOL ROOMS[1]

SECTION
9-501. Prohibited in residential areas.
9-502. Hours of operation regulated.
9-503. Minors to be kept out; exception.
9-504. Gambling, etc., not to be allowed.
9-505. Definition of pool rooms.

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (Code of 1977, § 5-501)

9-502. Hours of operation regulated. It shall be unlawful for any pool room to open, maintain, conduct, or operate on Sunday or between the hours of 12:00 p.m. and 6:00 a.m. on other days. (Code of 1977, § 5-502, as replaced by Ord. #490, Feb. 2002)

9-503. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (Code of 1977, § 5-503)

9-504. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire, to permit any gambling or other unlawful or immoral conduct on such premises. (Code of 1977, § 5-504)

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

9-505. Definition of pool room. For the purposes of this section, a "pool room" is defined to be any commercial establishment that obtains fifty percent (50%) or more of its gross revenues from the ownership/operation of pool tables or billiard tables. Any commercial establishment that derives less than fifty percent (50%) of its gross revenues form the ownership/operation of pool tables or billiard tables is not subject to the regulatory requirements of this section. (as added by Ord. #490, Feb. 2002)

CHAPTER 6

CARNIVALS, CIRCUSES, MENAGERIES, ETC.

SECTION
9-601. Games of chance prohibited.
9-602. Obscene or offensive performances prohibited.

9-601. Games of chance prohibited. No carnival, circus, menagerie or tent show of any kind or nature whatsoever wherein are conducted any games of chance shall at any time be permitted to show within the corporate limits of the Town of Selmer. (Code of 1977, § 5-602)

9-602. Obscene or offensive performances prohibited. No carnival, circus, menagerie or tent show shall conduct, carry on, or permit to be held, conducted or carried on any exhibition or entertainment of any sort which is offensive to decency, or is adapted to incite vicious or lewd thoughts or acts, or which is lewd or obscene, or vulgar, or which is of an obscene, indecent or immoral nature, or so suggestive as to be offensive to the moral sense; and it shall be unlawful for any person or persons to act, exhibit, show, or perform in, or cause to be enacted, exhibited, shown or performed, or in any way be concerned in the action, exhibition, showing, or performing of any indecent, lewd, obscene, immoral or blasphemous play, farce, opera, public exhibition, show, entertainment or any such performance of any kind whatsoever. (Code of 1977, § 5-603)

CHAPTER 7

PIN-BALL MACHINES

SECTION
9-701. Defined.
9-702. Privilege license required.
9-703. Unlawful to allow minors to play.

9-701. Defined. A pin-ball machine is defined to be any coin-operated game which shall have no reward other than the score attained for the particular game for which the particular coin has been deposited. (Code of 1977, § 5-701)

9-702. Privilege license required. It shall be unlawful for any person to maintain a pin-ball machine for operation in the Town of Selmer without first obtaining and displaying thereon a privilege license from the recorder. (Code of 1977, § 5-702)

9-703. Unlawful to allow minors to play. It shall be unlawful for any person maintaining a pin-ball machine to permit any person under the age of eighteen (18) years to play such machine. (Code of 1977, § 5-703)

CHAPTER 8

CABLE TELEVISION

SECTION
9-801. To be furnished under franchise.

9-801. To be furnished under franchise. Cable television shall be furnished to the Town of Selmer and its inhabitants under franchise granted to Cablevision Industries of Tennessee, L.P. by the board of mayor and aldermen of the Town of Selmer, Tennessee. The rights, powers, duties, and obligations of the Town of Selmer and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.[1]

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[1]For complete details relating to the cable television franchise agreement see ordinance no. 418 dated March 9, 1993, in the office of the city recorder.

CHAPTER 9

YARD SALES

SECTION
9-901. Definitions.
9-902. Property permitted to be sold.
9-903. Permit required.
9-904. Permit procedure.
9-905. Permit conditions.
9-906. Hours of operation.
9-907. Exceptions.
9-908. Display of sale property.
9-909. Display of permit.
9-910. Advertising.
9-911. Persons exempted from chapter.
9-912. Violations and penalty.

9-901. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

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

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment. (as added by Ord. #527, May 2006)

9-902. Properly permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #527, May 2006)

9-903. Permit required. No yard sale shall be conducted unless and until the individuals desiring to conduct such sale obtain a permit therefore from the city recorder. Members of more than one (1) residence may join in obtaining a permit for a yard sale to be conducted at the residence of one of them. Permits

may be obtained for any nonresidential location. (as added by Ord. #527, May 2006)

9-904. Permit procedure. (1) Application. The applicant or applicants for a yard sale permit shall notify the city recorder at least three (3) days in advance, either in person or by telephone, of the proposed sale setting forth the following information:

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

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

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

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

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

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

(2) Issuance of permit. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit number. (as added by Ord. #527, May 2006, and replaced by Ord. #570, April 2008)

9-905. Permit conditions. The permit shall set forth and restrict the time and location of such yard sale. No more than three (3) such permits may be issued to one residential location, residence and/or family household during any calendar year. A fourth yard sale may be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the city recorder.

If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during and calendar year. (as added by Ord. #527, May 2006)

9-906. Hours of operation. Yard sales shall be limited to no more than three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday). (as added by Ord. #527, May 2006, as replaced by Ord. #570, April 2008)

9-907. Exceptions. If a yard sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the city recorder shall issue another permit to the applicant for a yard sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required. (as added by Ord. #527, May 2006)

9-908. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (as added by Ord. #527, May 2006)

9-909. Display of permit. Any permit in possession of the holder or holders of a yard sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official. (as added by Ord. #527, May 2006)

9-910. Advertising. (1) Signs permitted. Only the following specified signs maybe displayed in relation to a pending yard sale:

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

(b) Directional signs. Six (6) signs of not more than two (2) square feet each are permitted when written permission to erect such signs is received from the property owners on whose property such signs are to be placed.

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

(3) Removal of signs. Signs must be removed at the close of the yard sale activities. (as added by Ord. #527, May 2006, and replaced by Ord. #570, April 2008)

9-911. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

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

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

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Selmer, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (as added by Ord. #527, May 2006)

9-912. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty under the general penalty provision of this code. (as added by Ord. #527, May 2006)

TITLE 10

ANIMAL CONTROL

CHAPTER
1. IN GENERAL.
2. DOGS.
3. PIT BULLS.

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.

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

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (Code of 1977, § 3-101, modified)

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand (1,000) feet of any residence, place of business, or public street, as measured in a straight line. (Code of 1977, § 3-102, modified)

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. (Code of 1977, § 3-103, modified)

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. (Code of 1977, § 3-104, modified)

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. (Code of 1977, § 3-105, modified)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (Code of 1977, § 3-106, modified)

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 any police officer or other properly designated officer or official 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. (Code of 1977, § 3-107, modified)

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.
10-208. Destruction of vicious or infected dogs running at large.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, sections 68-8-101 through 68-8-114) or other applicable law. (Code of 1977, § 3-201, modified)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (Code of 1977, § 3-202, modified)

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

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (Code of 1977, § 3-203, modified)

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. (Code of 1977, § 3-204, modified)

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[1]State law reference
Tennessee Code Annotated, sections 68-8-108 and 68-8-109.

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. When a complaint is made under this section an officer will go to the owner and explain the complaint and on a complaint a citation may be issued, if the complaint is justified. (Code of 1977, § 3-205, modified, as amended by Ord. #573, May 2008)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (Code of 1977, § 3-206, modified)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the 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 sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within five (5) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar. (Code of 1977, § 3-207, modified)

10-208. Destruction of vicious or infected dogs running at large. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman[1] or other properly designated officer. (Code of 1977, § 3-208, modified)

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[1]State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see the case of Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1927).

CHAPTER 3

PIT BULLS

SECTION
10-301. Definitions.
10-302. Restrictions.
10-303. Standards and requirements.
10-304. Sale or transfer of ownership prohibited.
10-305. Animals born of registered dogs.
10-306. Rebuttable presumptions.
10-307. Failure to comply.
10-308. Violations and penalties.

10-301. Definitions. The words, terms, and phrases, and their derivations as used in this chapter, except where the context clearly indicates otherwise, shall have the following meanings:

(1) "Impoundment" means the taking or picking up and confining of an animal by any police officer, animal control officer or any other public officer under the provisions of this chapter.

(2) "Muzzle" means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

(3) "Owner" means any person, partnership, corporation or other legal entity owning, harboring or possessing any pit bull, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. A pit bull shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.

(4) "Pit bull" means and includes any of the following dogs:

(a) The bull terrier breed of dog;

(b) The Staffordshire bull terrier breed of dog;

(c) The American pit bull terrier breed of dog;

(d) The American Staffordshire terrier breed of dog; and

(e) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bull, pit bull dogs or pit bull terriers; and

(f) Any dog which has the appearance and characteristics of being predominantly of the breeds of dogs known as bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

(5) "Predominantly" means knowledge through identification procedures or otherwise, or admission by owner, keeper, or harborer that the

dog is more than fifty percent (50%) pit bull. Predominantly also means that the dog exhibits the physical characteristics of a pit bull more than that of any other breed of dog.

(6) "Sanitary condition" means a condition of good order and cleanliness to minimize the possibility of disease transmission.

(7) "Under restraint" means that the dog is secured by a leash, led under the control of a person physically capable of restraining the dog and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises. (as added by Ord. #574, May 2008, and replaced by Ord. #582, Dec. 2008)

10-302. Restrictions. It shall be unlawful to keep, harbor, own or in any way possess a pit bull dog within the corporate limits of Selmer. Provided, however, that persons owning such dogs at the time this chapter is adopted shall be allowed to keep them, provided that they comply with all of the provisions of this chapter, including § 10-303, within thirty (30) days of the effective date of this chapter. (as added by Ord. #574, May 2008, and replaced by Ord. #582, Dec. 2008)

10-303. Standards and requirements. The following standards and requirements apply to pit bull dogs located within the corporate limits.

(1) Registration. Each owner, keeper, harborer, or possessor of a pit bull dog shall register such dog with the Selmer Police Department.

(2) Required restraints. No person having charge, custody, control or possession of a pit bull shall permit the dog to go outside its kennel, pen or other proper enclosure unless it is necessary for the dog to receive veterinary care, and, in such instance, the pit bull shall be restrained on a chain, rope or other type of leash, no longer than four feet (4') in length, and the person in physical control of the leash must be a person of suitable age and discretion, and the dog must further wear a properly fitted muzzle sufficient to prevent such dog from biting persons or other animals. Such muzzle shall not interfere with the dog's breathing or vision. Such pit bull dogs, under any circumstances, may not be leashed to an item or object such as trees, posts, buildings or structures, whether temporary or otherwise.

(3) Confinement. Except when leashed and muzzled, as a part of the requirement for receiving veterinary care, all pit bull dogs shall be securely confined indoors or confined in a locked pen, kennel or other secure enclosure that is suitable to prevent the injury of children, and is designed to prevent a pit bull dog from escaping. Such pen, kennel or structure must have secure sides and must be locked with a key or combination lock when such pit bull dogs are within the structure. All structures erected to house pit bull dogs must comply with zoning and building ordinances and regulations of the Town of Selmer. The enclosure shall include shelter and protection from the elements and shall

provide adequate exercise room, be adequately lighted and ventilated and kept in a clean and sanitary condition.

(4) Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign must be posted on the kennel or pen of such animal.

(5) Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs must within ten (10) days of the following incidents report the following information in writing to the Selmer Police Department as required hereinafter:

(a) The removal from the town or death of a pit bull dog;

(b) The birth of offspring of a pit bull dog;

(c) The new address of a pit bull dog owner should the owner move within the corporate limits of the town. (as added by Ord. #574, May 2008, and replaced by Ord. #582, Dec. 2008)

10-304. Sale or transfer of ownership prohibited. No person shall sell, barter or in any other way transfer possession of a pit bull dog to any person within the Town of Selmer unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside with the Town of Selmer. (as added by Ord. #574, May 2008, and replaced by Ord. #582, Dec. 2008)

10-305. Animals born of registered dogs. All offspring born of pit bull dogs within the Town of Selmer must be removed from the Town of Selmer within six (6) weeks of the birth of such animal. (as added by Ord. #574, May 2008, and replaced by Ord. #582, Dec. 2008)

10-306. Rebuttable presumptions. There shall be a rebuttable presumption that any dog registered within the Town of Selmer as a pit bull dog or any of those breeds defined by § 10-301 of this chapter is in fact a dog subject to the requirements of this code. (as added by Ord. #574, May 2008, and replaced by Ord. #582, Dec. 2008)

10-307. Failure to comply. It shall be unlawful for the owner, keeper, harborer, or possessor of a pit bull dog within the Town of Selmer to fail to comply with the provisions of this chapter. Any dog found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the Town of Selmer. (as added by Ord. #582, Dec. 2008)

10-308. Violations and penalties. Any persons violating or permitting the violation of any provision of this chapter shall be guilty of a civil offense, and upon conviction shall be subject to the fine prescribed in the general penalty clause of the Selmer Municipal Code. Each day such violation shall continue constitutes a separate offense. In addition to the foregoing penalty, any person who violates this chapter shall pay all expenses, including sums for shelter, food, handling, veterinary care and expert testimony, which are necessitated by the person's failure to abide by the provisions of this chapter. (as added by Ord. #582, Dec. 2008)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER
1. GENERALLY.
2. ENUMERATED.
3. MUNICIPAL PARKS, ETC.; HOURS OF OPERATION.

CHAPTER 1

GENERALLY

SECTION
11-101. Misdemeanors of the state adopted.
11-102. Financial responsibility.
11-103. Basketball goals alongside or within public rights-of-way.

11-101. Misdemeanors of the state[2] adopted. Except as prohibited by law, all offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the Common Law to be misdemeanors are hereby designated and declared to be offenses against the Town of Selmer also. Any violation of any such law within the corporate limits is also a violation of this section. (Code of 1977, § 10-101, modified)

11-102. Financial responsibility. 1. Effective January 1, 2002, every vehicle driven on city streets and the public roads of the Town of Selmer, Tennessee, must be in compliance with the Tennessee Financial Responsibility Law.

2. At the time a driver of a motor vehicle is charged with any moving violation under title 55 of the Tennessee Code Annotated, chapters 8 and 10, parts 1 through 5, or chapter 50; or any city ordinance regulating the operation of motor vehicles within the city under this section; or the time of an accident for which notice is required under Tennessee Code Annotated 55-10-106, the officer shall request evidence of financial responsibility as required by this

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[1]For offenses relating to fireworks, etc., see the fire code adopted in title 7; for traffic offenses, see title 15; for non-traffic offenses relating to streets and sidewalks, see title 16.

[2]See sections 39-1-103 and 39-1-104 of the Tennessee Code Annotated for the definition of a "misdemeanor."

section. In case of an accident for which notice is required under Tennessee Code Annotated 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

3. For purposes of this section, "proof of financial responsibility" means:

a. Documentation, such as the declaration page of an insurance policy, and insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1997 has been issued; or,

b. A certificate, valid for one (1) year, issued by the Commissioner of the Department of Safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1997 has been paid or filed with the Commissioner, or has qualified as a self-insurer under Tennessee Code Annotated 55-12-111; or

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

4. It is an offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a fine of fifty dollars ($50.00), plus the court cost.

5. The fine imposed by this section shall be in addition to any other fine imposed for any other violations of state law or any other ordinance under the city code.

6. On or before the court date for the hearing of the citation for failure to provide financial responsibility as required by this section, the person charged may submit evidence of compliance with this section at the time of the violation. If the city judge is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #489, Feb. 2002)

11-103. 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 Selmer 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. #507, July 2004)

CHAPTER 2

ENUMERATED

SECTION

11-201. Assault and battery.
11-202. Disturbing the peace.
11-203. Disorderly houses.
11-204. Immoral conduct.
11-205. Obscene literature, etc.
11-206. Indecent or improper exposure or dress.
11-207. Window peeping.
11-208. Profanity, etc.
11-209. Escape from custody or confinement.
11-210. Resisting or interfering with town personnel.
11-211. Impersonating a government officer or employee.
11-212. Weapons and firearms generally.
11-213. Air rifles, etc.
11-214. Throwing of missiles.
11-215. Gambling.
11-216. Promotion of gambling.
11-217. False emergency alarms.
11-218. Loitering.
11-219. Prowling.
11-220. Vagrancy.
11-221. Trespassing on trains.
11-222. Minors in beer places.
11-223. Abandoned refrigerators, etc.
11-224. Curfew for minors.
11-225. Malicious mischief.
11-226. Trespassing.
11-227. Posting notices, etc.
11-228. Drinking beer, etc., on streets, etc.
11-229. Coercing people not to work.
11-230. Caves, wells, cisterns, etc.
11-231. Interference with traffic.
11-232. Anti-noise regulations.
11-233. Fortune telling, etc.
11-234. Wearing masks.

11-201. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (Code of 1977, § 10-201)

11-202. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (Code of 1977, § 10-202)

11-203. Disorderly houses. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Furthermore, it shall be unlawful for any person knowingly to visit any such house for the purpose of engaging in such activities. (Code of 1977, § 10-203)

11-204. Immoral conduct. No person shall commit, offer, or agree to commit, nor shall any person secure or offer another for the purpose of committing, a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act or prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for any such purpose. (Code of 1977, § 10-204)

11-205. Obscene literature, etc. It shall be unlawful for any person to publish, sell, exhibit, distribute, or possess for the purpose of loaning, selling, or otherwise circulating or exhibiting, any book, pamphlet, ballad, movie film, filmstrip, phonograph record, or other written, printed, or filmed matter containing obscene language, prints, pictures, or descriptions manifestly intended to corrupt the morals. (Code of 1977, § 10-205)

11-206. Indecent or improper exposure or dress. It shall be unlawful for any person publicly to appear naked or in any dress not appropriate to his or her sex, or in any indecent or lewd dress, or otherwise to make any indecent exposure of his or her person. (Code of 1977, § 10-206)

11-207. Window peeping. No person shall spy, peer, or peep into any window of any residence or dwelling premise that he does not occupy nor shall he loiter around or within view of any such window with the intent of watching or looking through it. (Code of 1977, § 10-207)

11-208. Profanity, etc. No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or

around any place of business open to the use of the public in general. (Code of 1977, § 10-208)

11-209. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the Town of Selmer 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. (Code of 1977, § 10-209)

11-210. Resisting or interfering with town personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the Town of Selmer while such officer or employee is performing or attempting to perform his municipal duties. (Code of 1977, § 10-210)

11-211. Impersonating a government officer or employee. No person other than an official police officer of the Town of Selmer 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 Town of Selmer. Furthermore no person shall deceitfully impersonate or represent that he is any government officer or employee. (Code of 1977, § 10-211)

11-212. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the Town of Selmer. (Code of 1977, § 10-212)

11-213. Air rifles, etc. It shall be unlawful for any person in the Town of Selmer to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (Code of 1977, § 10-213)

11-214. Throwing of missiles. It shall be unlawful for any person to throw any stone, snowball, bottle, or any other missile maliciously upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (Code of 1977, § 10-214)

11-215. Gambling. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (Code of 1977, § 10-215)

11-216. Promotion of gambling. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (Code of 1977, § 10-216)

11-217. 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 an act. (Code of 1977, § 10-217)

11-218. Loitering. 1. Definitions. For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

a. "Loitering" means remaining idle in essentially one location and includes the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around, and also includes the colloquial expression "hanging around."

b. "Public place" means any place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, restaurant, tavern or other place of business and also public grounds, areas, or parks.

2. Prohibited. It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either along and/or in consort with others in a public place in such manner so as to obstruct any public street, public highway, public sidewalk or any other public place or building or to do any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk, or any other public place or building.

3. Order to move; penalty. When any person causes or commits any of the conditions enumerated in subsection (2) a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a misdemeanor and shall be subject to the penalty provided in the general penalty clause for this code. (Code of 1977, § 10-218)

11-219. Prowling. It shall be unlawful for any person to prowl about the streets, alleys, or other public or private ways or places. (Code of 1977, § 10-219, modified)

11-220. Vagrancy. It shall be unlawful for any person to beg or solicit alms or, if without apparent lawful means of support, wilfully to neglect to apply himself to some honest occupation. (Code of 1977, § 10-220)

11-221. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (Code of 1977, § 10-221)

11-222. Minors in beer places. No person under twenty-one (21) years of age shall loiter in or around, any place where beer is sold at retail for consumption on the premises. (Code of 1977, § 10-222, modified)

11-223. 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. (Code of 1977, § 10-223)

11-224. Curfew for minors. 1. A curfew is imposed in the Town of Selmer, Tennessee making it unlawful for anyone under the age of sixteen (16) to walk or ride with the corporate limits of Selmer, Tennessee between the hours of 12:01 A.M. and 6:00 A.M. without being accompanied by a parent or guardian.

2. The violation of this section will be treated as an act of delinquency. (Code of 1977, § 10-224, as replaced by ord. #423, §§ 1 and 2, Sept. 1993)

11-225. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person wilfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (Code of 1977, § 10-225)

11-226. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (Code of 1977, § 10-226)

11-227. 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. (Code of 1977, § 10-227)

11-228. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has a beer permit and license for on premises consumption. (Code of 1977, § 10-229)

11-229. 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 is expressly not the purpose of this section to prohibit peaceful picketing. (Code of 1977, § 10-230)

11-230. 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. (Code of 1977, § 10-231)

11-231. 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. (Code of 1977, § 10-232)

11-232. 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, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in any hospital, dwelling, hotel, or other type of residence, or of any 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. Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper town authorities.

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

h. Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 a.m. and

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

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

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

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

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

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

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

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

c. Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (Code of 1977, § 10-233)

11-233. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (Code of 1977, § 10-234)

11-234. 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. (Code of 1977, § 10-235)

CHAPTER 3

MUNICIPAL PARKS, ETC.; HOURS OF OPERATION

SECTION
11-301. Municipal parks, etc.; hours of operation.

11-301. Municipal parks, etc.; hours of operation. The Selmer Town Park, specifically including the park area and all improvements located thereon, the municipal tennis courts, the municipal swimming pool, the municipal basketball courts, and all parking areas attendant thereto, shall be closed to public use and occupancy between the hours of 11:00 o'clock p.m., and 6:00 o'clock a.m., and during such period of time a curfew is imposed upon these defined public areas. Anyone violating the terms of this chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of $50.00. (Ord. # 338)

TITLE 12

BUILDING, UTILITY, ETC. CODES[1]

CHAPTER
1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. RESIDENTIAL CODE.
6. MECHANICAL CODE.
7. ENERGY CONSERVATION CODE.
8. ONE- AND TWO-FAMILY DWELLINGS AND TOWNHOUSES.

CHAPTER 1

BUILDING CODE

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

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,[1] 2012 edition, including appendix chapters and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the building code. (Code of 1977, § 4-101, as amended by Ord. #474, March 2000, and replaced by Ord. #590, April 2010, Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

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[1]Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

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

Definitions. Whenever the words "Building Official" are used in the building code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the building code. (Code of 1977, § 4-102, as amended by Ord. #590, April 2010, Ord. #660, Nov. 2016 ***Ch8_06-29-23***, and replaced by Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

12-103. 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. (Code of 1977, § 4-103, modified, as replaced by Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (Code of 1977, § 4-104, as replaced by Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

CHAPTER 2

PLUMBING CODE

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

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the town water or sewerage system, the International Plumbing Code,[1] 2012 edition, including appendix chapters and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the plumbing code. (Code of 1977, § 4-201, as amended by Ord. #474, March 2000, and replaced by Ord. #629, Aug. 2013 ***Ch8_06-29-23***, Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

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

Definitions. Whenever the words "Building Official" are used in the plumbing code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the plumbing code. (Code of 1977, § 4-202, as replaced by Ord. #629, Aug. 2013 ***Ch8_06-29-23***, Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Code of 1977, § 4-203, modified, as replaced by Ord. #629, Aug. 2013 ***Ch8_06-29-23***, Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

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[1]Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (Code of 1977, § 4-204, as replaced by Ord. #629, Aug. 2013 ***Ch8_06-29-23***, Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

CHAPTER 3

ELECTRICAL CODE

SECTION
12-301. Electrical code adopted.
12-302. Available in recorder's office.
12-303. Permit required for doing electrical work.
12-304. Violations.
12-305. Enforcement.
12-306. Fees.

12-301. Electrical code adopted. Pursuant to authority granted by sections 6-54-501--6-54-506 of the Tennessee Code Annotated 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,[1] 1971 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. (Code of 1977, § 4-301)

12-302. Available in recorder's office. Pursuant to the requirements of section 6-54-502 of the Tennessee Code Annotated, 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. (Code of 1977, § 4-302, modified)

12-303. Permit required for doing electrical work. No electrical work shall be done within the Town of Selmer until a permit therefor has been issued by the town. 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. (Code of 1977, § 4-303)

12-304. 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 circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (Code of 1977, § 4-304)

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[1]Copies of this code may be purchased from the National Fire Protection Association, 60 Battery-march Street, Boston, Massachusetts 02110.

12-305. 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. (Code of 1977, § 4-305)

12-306. Fees. The electrical inspector shall collect the same fees as are authorized in section 68-17-143, Tennessee Code Annotated, for electrical inspections by deputy inspectors of the state fire marshal. (Code of 1977, § 4-306)

CHAPTER 4

GAS CODE[1]

SECTION

12-401. Title and definitions.
12-402. Purpose and scope.
12-403. Use of existing piping and appliances.
12-404. Bond and license.
12-405. Gas inspector and assistants.
12-406. Powers and duties of inspector.
12-407. Permits.
12-408. Inspections.
12-409. Certificates.
12-410. Fees.
12-411. Violations and penalties.
12-412. Non-liability.

12-401. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the Town of Selmer 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. (Code of 1977, § 4-401)

12-402. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of

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[1]Municipal code reference
See title 19 for gas and electricity provisions.

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 Southern Standard Gas Code,[1] 1999 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. (Code of 1977, § 4-402, as amended by Ord. #474, March 2000)

12-403. 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. (Code of 1977, § 4-403)

12-404. 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 $10,000, 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

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[1]Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress, 3617 - 8th Avenue, South, Birmingham, Alabama 35222.

conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (Code of 1977, § 4-404)

12-405. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed by the board of mayor and aldermen. (Code of 1977, § 4-405)

12-406. 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. (Code of 1977, § 4-406)

12-407. 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 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. (Code of 1977, § 4-407)

12-408. 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 tests shall be furnished by the installer of such piping. (Code of 1977, § 4-408)

12-409. 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. (Code of 1977, § 4-409)

12-410. Fees. (1) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspection) 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 $0.50 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 return inspection.

(5) Any and all fees shall be paid by the person to whom the permit is issued. (Code of 1977, § 4-410)

12-411. Violations and penalties. 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. (Code of 1977, § 4-411)

12-412. Non-liability. This chapter shall not be construed as imposing upon the Town of Selmer 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 Town of Selmer, 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. (Code of 1977, § 4-412)

CHAPTER 5

RESIDENTIAL CODE

SECTION
12-501. Residential code adopted.
12-502. Modifications.
12-503. Available in recorder's office.
12-504. Violations and penalty.

12-501. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code,[1] 2012 edition, including appendix chapters, is and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the residential codes. (Code of 1977, § 4-501, as amended by Ord. #474, March 2000, and replaced by Ord. #590 April 2010, Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

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

(1) Definitions. Whenever the words "Building Official" are used in the residential code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the residential code.

(2) Automatic sprinkler system standards. Section R 313 pertaining to automatic sprinkler systems for townhouses and residential dwellings for single family and double family dwellings is hereby deleted. (Code of 1977, § 4-502, as amended by Ord. #590, April 2010, and replaced by Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

12-503. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Code of 1977, § 4-503, modified, as replaced by Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

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[1]Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206

12-504. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (Code of 1977, § 4-504, as replaced by Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

CHAPTER 6

MECHANICAL CODE

SECTION

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

12-601. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the International Mechanical Code,[1] 2012 edition, including appendix chapters and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim and is hereinafter referred to as the mechanical code. (as added by Ord. #628, Aug. 2013 ***Ch8_06-29-23***, and replaced by Ord. #673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

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

Definitions. Whenever the words "Building Official" are used in the mechanical code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the mechanical code. (as added by Ord. #628, Aug. 2013 ***Ch8_06-29-23***, and replaced Ord.#673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

12-603. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #628, Aug. 2013 ***Ch8_06-29-23***, and replaced Ord.#673, July 2017 ***Ch8_06-29-23***, and Ord. #668, March 2018 ***Ch8_06-29-23***)

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[1]Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206

12-604. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #673, July 2017 ***Ch8_06-29-23***, and replaced by Ord. #668, March 2018 ***Ch8_06-29-23***)

CHAPTER 7

ENERGY CONSERVATION CODE

SECTION

12-701. Energy conservation code adopted.
12-702. Modifications.

12-701. Energy conservation code adopted. That a certain document, one (1) copy of which is on file in the office of the Selmer Town Recorder, being marked and designated as the International Energy Conservation Code,[1] 2009 edition, as published by the International Code Council, be and is hereby adopted as the energy conservation code of the Town of Selmer, Tennessee, for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees there for; and each and all of the regulations, provisions, penalties, conditions and terms of said energy conservation code on file in the office of the Selmer Town Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in § 12-702 of this ordinance. (as added by Ord. #646, Feb. 2015 ***Ch8_06-29-23***)

12-702. Modification. The following sections are hereby revised:

Section 101.l. Insert: Town of Selmer, Tennessee.

Section 108.4. Insert: "$2.00" in the first [AMOUNT] place and "$50.00" in the second [AMOUNT] place. (as added by Ord. #646, Feb. 2015 ***Ch8_06-29-23***)

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[1]Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206

CHAPTER 8

ONE-AND TWO-FAMILY DWELLINGS AND TOWNHOUSES

SECTION

12-801. Definitions.
12-802. Adoption by reference.
12-803. Conflicts.
12-804. Application.
12-805. Permits.
12-806. Issuance of permits in violation of this chapter.
12-807. Inspections.
12-808. Fees.
12-809. Certificates of occupancy.
12-810. Dispute resolution.
12-811. Equivalencies.
12-812. Local government enforcing residential building codes and standards.
12-813. Permit issuing agents.
12-814. Local governments opting out of these provisions.
12-815. Dwelling units.

12-801. Definitions. (1) For the purposes of this chapter, the following definitions are applicable. All other definitions shall be as provided by the building and electrical codes and standards currently adopted by the department:

(a) "Addition" means an increase in floor area or height of structure.

(b) "Construction" means the erection of a new building containing a detached one (1) or two (2) family dwelling or townhouse, a change of occupancy of an existing building to a one (1) or two (2) family dwelling or townhouse or, after October 1, 2011, an addition to an existing detached one (1) or two (2) family dwelling or townhouse of thirty (30) square feet or more of interior space. The term "construction" shall not be construed to include excavation, site preparation or renovation. The term "construction" shall also not be construed to include the construction or placement of a modular or manufactured home under Tennessee Code Annotated title 68, chapter 126; however, the term "construction" shall include any additional on-site construction to a modular or manufactured home.

(c) "Department" means the Department of Commerce and Insurance.

(d) "Deputy State Building Inspector (DBI)" means any person who meets the qualifications in Tennessee Code Annotated § 68-120-101(f)(1) and (2) and is appointed by the Commissioner of

Commerce and Insurance to perform inspections of one (1) and two (2) family dwelling and townhouse construction.

(e) "Division" means the Division of Fire Prevention of the Department of Commerce and Insurance.

(f) "Fire renovation" means a renovation required after a fire regardless of whether the walls must be reconstructed.

(g) "Local government" means any city, county, town, municipal corporation, metropolitan government, or political subdivision of the state of Tennessee.

(h) "One (1) and two (2) family dwelling" means a building that contains one (1) or two (2) dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied for living purposes.

(I) "Property owner's permit" means permit applied for by a record owner of the property in order to build a one (1) family dwelling in which the owner intends to live upon completion.

(j) "Renovation" means interior or exterior painting, papering, tiling, carpeting, cabinet installation, counter top installation, reroofing, residing, glazing or replacing windows or doors, floor finishing, repairs to existing chimneys, stairs, porches, underpinnings, exterior siding or roof and similar activities, additions of exterior space and additions of less than thirty (30) square feet of interior space.

(k) "Townhouse" means a single family dwelling unit constructed in a group of three (3) or more attached units that extends from foundation to roof, separated by a two (2) hour fire resistance rated wall assembly, not more than three (3) stories in height, with a separate means of egress, and an open space or public way on at least two (2) sides.

(l) "Transient occupant" means a person who occupies a single dwelling unit for not more than thirty (30) days. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-802. Adoption by reference. (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum codes and standards for the construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space in the State of Tennessee shall be those prescribed in the following publications:

(a) International Residential Code (IRC), 2018 edition, published by the International Code Council, Inc. (ICC), 500 New Jersey Avenue Northwest, 6th Floor, Washington, D.C., 20001, and Appendix Q except that:

1. Section R313 Automatic Fire Sprinkler Systems is not mandatory, pursuant to Tennessee Code Annotated § 68-120-101(a)(8).

2. Chapters 34-43 relating to Electrical Installations are deleted and electrical standards adopted in 0780-02-01 Electrical Installations shall apply.

3. Figure R301.2(2) Seismic Design Categories is deleted and replaced with Figure R301.2(2) Seismic Design Categories Site Class D from 2015 IRC.

4. Section R314.6 Power Source relating to Smoke Alarms is amended to create Exception 3 that shall read:

> Exception 3. Interconnection and hardwiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishes exposing the structure.

5. Section N1102.4.1.2 (R402.4.1.2) Testing is replaced with Section N1102.4.2.1 Testing Option and Section N1102.4.2.2 Visual Inspection from 2009 IRC.

6. Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory) and Section N1103.3.4 (R403.3.4) Duct Leakage (Prescriptive) are optional.

7. Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirement by Component and Table N1102.1.4 (R402.1.4) Equivalent U-Factors from 2018 IRC are replaced with Table N 1102.1 Insulation and Fenestration Requirements by Component and Table N1102.1.2 Equivalent U-Factor from 2009 IRC.

8. Section N1102.4.4 (R402.4.4) Rooms Containing Fuel-Burning Appliances is deleted in its entirety.

9. Table N1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and amended by adding the following as footnote "l":

> "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used."

10. Table N1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and amended by adding the following as footnote "m":

> "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 4 when a Fenestration U-Factor of .35 or lower is used, a Skylight Li-Factor of .60 or lower is used, a 90 AFUE

Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used."

(b) International Energy Conservation Code (IECC), 2018 edition, published by the ICC, except that:

1. Section R402.4.1.2 Testing is deleted and replaced with Section 402.4.2.1 Testing Option and Section 402.4.2.2 Visual Inspection Option from 2009 IECC.

2. Section R403.3.3 Duct Testing (Mandatory) and Section R403.3.4 Duct Leakage (Prescriptive) are optional.

3. Table 402.1.2 Insulation and Fenestration Requirements by Component and Table R402.1.4 Equivalent Li-Factors are deleted and replaced with Table 402.1.1 Insulation and Fenestration Requirements by Component and Table 402.1.3 Equivalent U-Factors 2009 IECC.

(2) Paragraph (1) of this rule shall not be construed as adopting any provision of the cited publications which establishes:

(a) Any provision superseded by law;

(b) An optional or recommended, rather than mandatory, standard or practice; or

(c) Any agency, procedure, fees, or penalties for administration or enforcement purposes inconsistent with these rules.

(3) The provisions of the cited publications adopted by reference in paragraph (1) shall govern the manner in which:

(a) The codes and standards are applied to construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) or more square feet of interior space as defined in this chapter;

(b) Occupancies and types of construction are classified for the purpose of determining minimum requirements of the codes and standards; and

(c) The specific requirements of the codes and standards may be modified to permit the use of alternate materials or methods of construction. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-803. Conflicts. (1) In the event of a conflict or inconsistency between the codes and standards adopted by reference in Tenn. Comp. R. & Regs. 0780-02-23-.02 and 0780-02-01-.02 (Electrical Installations), the most stringent provisions shall control.

(2) Nothing in this rule shall abrogate any right of appeal granted under Tennessee Code Annotated title 68, chapters 102 and 120. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-804. Application. (1) After October 1, 2010, the commencement of any construction, as defined in rule 0780-02- 23-.01, of one and two family dwellings

or townhouses undertaken shall be in compliance with the standards adopted by reference in rule 0780-02-23-.02.

(2) After October 1, 2011, the commencement of any construction, as defined in rule 0780-02-23-.01, of additions to one (1) and two (2) family dwellings or townhouses of thirty (30) square feet or more of interior space undertaken shall be in compliance with the standards adopted by reference in rule 0780-02-23-.02. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-805. Permits. (1) No construction of a one (1) or two (2) family dwelling or townhouse shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out of these provisions. A separate permit shall be required for each unit of a townhouse. Issuing agents shall receive no more than fifteen dollars ($15.00) for each issued permit. This fifteen-dollar ($15.00) fee shall be remitted from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.

(2) No construction of an addition to a one (1) or two (2) family dwelling or townhouse of thirty (30) square feet or more of interior space shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out of these provisions. Issuing agents shall receive no more than fifteen dollars ($15.00) for each issued permit. This fifteen-dollar ($15.00) fee shall be remitted from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.

(3) A property owner's permit shall automatically expire upon completion of the work for which the permit was issued. All work done under such permit shall be subject to regular inspection requirements and fees and other applicable laws and regulations. Pursuant to Tennessee Code Annotated § 62-6-103, an individual may obtain only one (1) property owner's permit within a twenty-four (24) month period.

(4) (a) When applying for a permit, an applicant shall complete a form prescribed by the Department containing at least the following information:

(i) The location where the work will be performed, including street address, if available;

(ii) A description of the work to be performed;

(iii) The use and occupancy of the structure;

(iv) The valuation of the project;

(v) The square footage of the construction; and

(vi) The signature of the applicant.

(b) When applying for a permit, an applicant shall present:

(i) Payment in an acceptable form in the amount of the permit fee; and

(ii) Licensure pursuant to Tennessee Code Annotated title 62, chapter 6 (proof of licensure is not required for a property owner purchasing the permit when the property owner is performing the work).

(c) When applying for a permit, an applicant shall certify and have proof available, if requested, of:

(i) Availability of public sewer or a septic permit; and

(ii) Any license or permit required by state law or local ordinance.

(5) All building permits are non-transferable.

(6) In the event more than one (1) rejection is issued during the building inspection process, an additional inspection permit shall be obtained for each subsequent rejection.

(7) (a) A building permit shall be void if the authorized work is not commenced within one hundred eighty (180) days after its issuance. If the work authorized by a permit is commenced and then suspended or abandoned for a period of one hundred eighty (180) days a building permit shall be void. The Commissioner of Commerce and Insurance, or designee, is authorized to grant one (1) or more extensions of time, for period of not more than one hundred eighty (180) days each. All extensions shall be requested in writing and justifiable cause demonstrated.

(b) Every building permit shall expire two (2) years from the date of issue or upon the issuance of the certificate of occupancy unless:

(i) The Commissioner of Commerce and Insurance, or designee, determines that substantial progress has been made in the work authorized by the permit; and

(ii) The permit holder is granted an exception or extension after submitting a written request to the Commissioner of Commerce and Insurance, or designee.

(c) No construction work for which a permit is required shall be commenced in any building or premises until a permit to perform such work is obtained.

(8) The original permit, along with any other required state or local permit, shall be placed on site and shall be readily available for inspection. Upon completion of a request form prescribed by the Department, a duplicate original permit may be obtained for a fee of ten dollars ($10.00) in the event of the loss or destruction of the original permit.

(9) It shall be the responsibility of all persons performing work on the site to comply with the required codes and standards.

(10) The issuance of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any state law or regulation or any ordinance of the local jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter,

any state law or regulation or any ordinance of the local jurisdiction shall not be valid. The issuance of a permit based on construction documents or other data shall not prevent the Division from requiring the correction of errors in the construction documents or other data. The Division is also authorized to prevent occupancy or use of a structure where there is a violation of the chapter or any state law or regulation. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-806. Issuance of permits in violation of this chapter. (1) The division may suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any state law or regulation or any of the provisions of this chapter.

(2) Upon notice from the division to the issuer, the issuer shall immediately revoke any permit issued in violation of state law or regulation or this chapter, and any construction on such project must cease until proper approval is obtained and a new permit issued pursuant to this chapter. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-807. Inspections. (1) Inspections of construction of one (1) family and two (2) family dwellings, townhouses begun after October 1, 2010, and additions thereto of thirty (30) square feet or more of interior space begun after October 1, 2011, will be conducted by deputy building inspectors appointed under contract with the Commissioner of Commerce and Insurance pursuant to Tennessee Code Annotated § 68-120-101.

(a) Fees for such inspections for services in subparagraph (2)(a) are specified in rule 0780-02-23-.08.

(b) Fees charged for additional inspections, including consultation inspections, slab inspections, plumbing, mechanical and gas inspections and inspections necessitated by more than one (1) rejection on the project, are specified in rule 0780-02-23-.08.

(2) (a) Inspections shall be required on:

(i) Foundations after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and supported prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, equipment and special requirements for wood foundations. Monolith poured slabs shall be inspected as the footing for the structure.

(ii) After October 1, 2011, plumbing and mechanical systems prior to covering or concealment, before fixtures or appliances are set or installed, and prior to or at the same time as the framing inspection.

(iii) Frame after roof, framing, fire stopping, draft stopping, bracing rough in plumbing, rough in mechanical and rough in electrical are in place.

(iv) Attached garages.

(v) Prefabricated walls.

(vi) Fire renovations.

(vii) Final after the permitted work is complete and prior to occupancy.

(b) If a slab foundation, other than a monolith pour, is to be used, an inspection of the slab shall be required in addition to the foundation inspection. Monolith pour, or monolith slab foundation that consists of a single concrete slab with thickened portions of slab under loadbearing walls, does not require a separate inspection.

(c) Energy efficiency inspections shall occur during the required inspections specified in Tenn. Comp. R. & Regs. 0780-02-23-.08(2) as required by the adopted codes and standards.

(3) It shall be the duty of the permit holder or agent thereof to notify the building inspector through the permit issuing agent that such work is ready for inspection. It shall be the duty of the person requesting any inspections required to provide access to and means for inspection of such work.

(4) Inspections shall be conducted in the order set out in paragraph (2) of this rule. Work shall not be done beyond the point indicated in each successive inspection without first obtaining approval of the building inspector. The building inspector, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with the adopted standards. Any portions that do not comply with the adopted codes and standards shall be corrected and such portions shall not be covered or concealed until authorized by the building inspector.

(5) The Commissioner of Commerce and Insurance, or designee, may waive an inspection if an inspection letter approving the work acceptable to the division is signed and submitted by an architect or engineer currently registered in the state of Tennessee. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-808. Fees. (1) The fee shall be payable in full at the time of application for a building permit. The fee shall be determined based on actual expected construction costs; however, the actual costs shall not be less than the construction cost based on the latest available Building Valuation Data published by the International Code Council (using a 0.60 cost modifier, except for the footnotes). The fee for a permit for construction shall be as specified in the following table:

Total Construction Cost	Fee
$0.00 to $5,000	$100
$5,001 to $100,000	$350
$100,001 to $150,000	$400
$150,001 to $200,000	$450
$200,001 to $250,000	$500
$250,001 to $300,000	$550
$300,001 AND UP	$550 for the first $300,000; plus $50.00 for each additional fifty thousand dollars ($50,000) above $300,000 or fraction thereof.

(a) When the permit fee is to be collected from another state department or agency, the permit may be issued once all information needed to invoice or journal voucher the other state department or agency has been received.

(b) If the application for a building permit must be resubmitted because its issuance has become invalid under paragraph (3) of rule 0780-02-23-.05, the fee established in this rule shall be imposed.

(2) After October 1, 2011, the fee for a plumbing and mechanical inspection shall be one hundred dollars ($100.00) in addition to other applicable fees.

(3) The fee for a slab inspection, other than monolith pours, shall be one hundred dollars ($100.00) in addition to other applicable fees.

(4) The fee for a prefabricated wall inspection shall be one hundred dollars ($100.00) in addition to other applicable fees.

(5) The fee for a re-inspection necessitated by more than one (1) rejection on a project shall be one hundred dollars ($100.00).

(6) The fee for a consultation inspection or a temporary certificate of occupancy shall be one hundred dollars ($100.00).

(7) The division may require appropriate documentation of costs (such as contractors' bids or invoice) if:

(a) In the division's opinion, the construction cost of a project has been underestimated in a permit application based on the latest available building valuation data published by the International Code Council (using a 0.60 cost modifier, except for the footnotes).

(b) After initial review, if such documentation warrants an additional permit charge it shall be computed, assessed, and paid promptly and no further construction shall be authorized pursuant to the authority of the permit until payment is made.

(8) If a permit expires before completion of a project or a project is stopped before its completion, the permit holder shall be entitled to a refund of the inspection fees that would have been due to the deputy building inspector under their contract for any required inspection under Tenn. Comp. R. & Regs. 0780-02-23-.08 that was not performed, provided that the permit holder requests such refund on a form prescribed by the division no less than sixty (60) days prior to the expiration of the permit.

(9) Any person who begins any work on any building or structure before obtaining the necessary permit required under this chapter shall be subject to an additional fee of one hundred percent (100%) of the required permit fee for each violation. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-809. Certificate of occupancy. (1) A new one (1) or two (2) family dwelling, townhouse, where construction began after October 1, 2010, or any additions thereto of thirty (30) square feet or more of interior space regulated under this chapter, where construction began after October 1, 2011, shall not be occupied until the division has issued a certificate of occupancy.

(2) A certificate of occupancy shall be issued after the passage of all inspections required by this chapter and passage of the final electrical inspection.

(3) The certificate of occupancy shall state:

(a) The building permit number;

(b) The address of the building;

(c) The name and address of the building owner;

(d) The name of the deputy building inspector;

(e) The edition of the codes and standards the building permit was issued under; and

(f) The date of issuance.

(4) A temporary certificate of occupancy may be issued by the division for a portion or portions of the construction that may be occupied safely prior to final completion of the building.

(5) The division may suspend or revoke a certificate of occupancy issued under the provisions of this chapter if the certificate of occupancy is issued in error, or on the basis of incorrect, inaccurate or incomplete information, or in violation of any state law or regulation or any of the provisions of this chapter. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-810. Dispute resolution. (1) Disputes that arise during the inspection process shall be resolved as follows:

(a) When a dispute arises as to the interpretation or applicability of a provision of the adopted codes and standards between the owner, designer or contractor on a project and the deputy building inspector inspecting the project, the dispute shall be submitted to the director over residential inspections, or designee, for resolution.

(b) If the owner, designer or contractor disagrees with the decision of the director over residential inspections, or designee, the dispute shall be submitted to the director's supervisor within the division for resolution.

(c) If the owner, designer or contractor disagrees with the decision of the director's supervisor within the division, the dispute shall be submitted to the Commissioner of Commerce and Insurance, or designee, for resolution.

(d) At any point during this process, the parties may agree to submit the dispute to the publisher of the applicable codes and standards for a written opinion.

(2) The entire dispute resolution process set forth in paragraph (1) above shall be completed as quickly as possible, but no more than thirty (30) calendar days from the date that the dispute is first submitted for resolution, unless the dispute is submitted to the publisher of the codes and standards for an opinion.

(3) If there are any fees charged by the publisher for rendering a written opinion, those fees shall be paid by the owner, designer or contractor of the project before a certificate of occupancy will be issued by the division. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-811. Equivalencies. (1) Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the codes and standards adopted in this chapter, the Commissioner of Commerce and Insurance, or designee, shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Commissioner of Commerce and Insurance, or designee, shall first find that the special individual reason makes the strict application of the codes and standards adopted in this chapter impractical and the modification is in compliance with the intent and purpose of the codes and standards adopted in this chapter and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and kept in the files of the division.

(2) The provisions of the codes and standards adopted in this chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by the codes and standards, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Commissioner of Commerce and Insurance, or designee, finds that the proposed design is satisfactory and complies with the intent of the codes and standards adopted in this chapter, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed by the codes and standards adopted in this chapter in quality, strength, effectiveness, fire

resistance, durability and safety. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-812. Local government enforcing residential building codes and standards. Purpose. Pursuant to Tennessee Code Annotated § 68-120-101, a local government may be responsible for adopting and enforcing residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space. The county or city is authorized to charge and receive a fee for each inspection performed. This rule sets forth the criteria by which local governments are authorized to adopt and enforce residential building codes and standards and the procedures by which the division may review such authorization.

(1) Initial authorization. (a) On or before July 1, 2010, or upon subsequent adoption thereof, a local government meeting the requirements of Tennessee Code Annotated § 68-120-101, to adopt and enforce residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space, shall provide the division with the following information:

(i) The titles and editions of the residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings and townhouses adopted and enforced by the local government;

(ii) The number and types of inspections that will be conducted;

(iii) A description of the permit issuance, enforcement, and recordkeeping process for all residential inspection activities.

(iv) The names of all persons who are employed by the local government to perform residential building inspections on the construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space and who meet the training requirements of Tennessee Code Annotated §§ 68-120-101(f)(1)(B), 68-120-113, and 68-120-118; and

(v) Any other documentation the division deems necessary from a local government to evidence compliance with the requirements of Tennessee Code Annotated §§ 68-120-101, 68-120-113 and 68-120-118. The division may conduct an on-site review of the local government's residential building permit and inspection process.

(2) Except as provided in Tennessee Code Annotated § 68-120-101, or otherwise approved in writing by the state fire marshal, no city, county, town, municipal corporation, metropolitan government, or political subdivision of the State of Tennessee shall adopt or enforce any ordinance prescribing less

stringent standards of fire prevention, fire protection, or building construction safety than those established hereunder. The residential building construction and fire safety codes and standards adopted by a local government shall be current within seven (7) years of the date of the latest edition published. Any amendments to the editions of the standards and codes adopted by the local government shall be designed to afford a reasonable degree of safety to life and property from fire and hazards incident to the design, construction, alteration, and repair of buildings or structures within the jurisdiction. If a local government adopts a less stringent seismic standard, the local government shall submit the request in writing with a letter from an engineer registered in Tennessee confirming that the proposed standards afford, to a reasonable degree, building construction standards to protect life and property. A local government may also request to adopt a less stringent seismic standard proposed by a different political subdivision if that standard was previously approved by the state fire marshal.

(3) Review of local government authorization. (a) For any local government that is authorized to adopt and enforce residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space, the division will conduct a review of the local government's authorization at least once every three (3) years. The local government shall submit the following information on a form provided by the division within thirty (30) days of its receipt of the form.

(i) The titles and editions of the residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings and townhouses adopted and enforced by the local government;

(ii) The number and types of residential inspections that are conducted;

(iii) A description of the permit issuance, enforcement, and recordkeeping process for all residential inspection activities;

(iv) The names of all persons who are employed by the local government to perform residential building inspections on the construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space and who meet the training requirements of Tennessee Code Annotated §§ 68-120-101(f)(1)(B), 68-120-113 and 68-120-118; and,

(v) Any other documentation the division deems necessary from the local government to evidence compliance with the requirements of Tennessee Code Annotated §§ 68-120-101, 68-120-113 and 68-120-118. The division may conduct an on-site review of the local government's residential building permit and inspection process.

(b) Each local government selected for an on-site review pursuant to this paragraph shall be notified of the review in writing.

(c) Report of review.

(i) After conclusion of the review, the division shall notify the local government in writing whether the local government's adopted residential building construction and fire safety codes and standards are current as required by law, whether there are any areas in which the local government is not adequately enforcing the adopted codes and standards, and whether the local government's personnel is properly performing inspections.

(ii) If the local government has not adopted current residential building codes and standards, is not adequately enforcing the adopted codes and standards, or is not properly performing inspections, the notification shall contain recommended corrective action, and the local government shall be directed to submit a plan of corrective action to the division within thirty (30) days after its receipt of the notification. The plan of corrective action shall be sufficiently detailed so as to ensure compliance with all requirements for initial authorization.

(iii) Within thirty (30) days after receipt of the local government's plan of corrective action, the division shall either approve or disapprove the plan. If the plan is approved, the division may conduct periodic follow-up reviews to ensure continued compliance with the plan. If the plan is not approved, the division may remove the local government's authorization to conduct building inspections on the construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-813. Permit issuing agents. (1) All individuals, including all business entities, local governments and cooperatives, who undertake to issue building permits under this chapter, must hold a current contract with the Department of Commerce and Insurance, as administered through the division of fire prevention.

(2) State deputy building inspectors and their immediate families are ineligible to become issuing agents. Additionally, without prior approval from the department, no individual or business entity in any way related to or financially associated with any department official will be allowed to become an issuing agent. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-814. Local government opting out of these provisions. Any local government opting out of the provisions of Tennessee Code Annotated

§ 68-120-101 regarding residential building codes and standards for one (1) and two (2) family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space shall submit to the division the following:

(1) A certified copy of the resolution opting out of these provisions;

(2) The date of the next election for the legislative body; and

(3) The name and mailing address of the person responsible by law for recordkeeping for the legislative body and to whom any notifications should be sent. (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

12-815. Dwelling units. (1) A single dwelling unit providing complete independent living facilities including, but not limited to, permanent provisions for living, sleeping, eating, cooking and sanitation, may meet the requirements of a one (1) and two (2) family dwelling and shall not be subject to the provisions of Tenn. Comp. R. & Regs. 0780-02-03 (Review of Construction Plans and Specifications) if the dwelling unit:

(a) Is three (3) stories or less:

(b) Has a maximum occupancy of twelve (12) or fewer transient occupants; and,

(c) And consists of a gross area of less than five thousand square feet (5,000).

(2) A dwelling unit shall be in compliance with paragraph (1) of this rule in order to qualify for classification as a one (1) or two (2) family dwelling unit. Any noncompliance with a single criterion may result in the dwelling unit being classified as nonresidential.

(3) A boarding house or congregate living facility shall meet the requirements of the applicable standards adopted pursuant to Tennessee Code Annotated § 68-120-101 and Tenn. Comp. R. & Regs. 0780-02-02 (Codes and Standards) and 0780-02-03 (Review of Construction Plans and Specifications). (as added by Ord. #695, May 2023 ***Ch8_06-29-23***)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER
1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. ABANDONED MOTOR VEHICLES

CHAPTER 1

MISCELLANEOUS

SECTION
13-101. Smoke, soot, cinders, etc.
13-102. Stagnant water.
13-103. Weeds and grass.
13-104. Overgrown and dirty lots.
13-105. Dead animals.
13-106. Health and sanitation nuisances.
13-107. Violations and penalty.
13-108. Accumulation of furniture and waste on porches, lawns or public right of way.
13-109--13-113. [Deleted.]

13-101. Smoke. soot. cinders. etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (Ord. #325, as replaced by Ord. #417, § 1, March 1993, and Ord. #526, May 2006)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (Ord. #325, as replaced by Ord. #417, § 2, March 1993, and Ord. #526, May 2006)

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the building inspector/code enforcement officer to cut such vegetation

when it has reached a height of over eight (8) inches. (Ord. #325, as replaced by Ord. #417, § 3, March 1993, and Ord. #526, May 2006)

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

2. Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

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

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

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

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

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

assessed against the owner of the property. Upon the filing of the notice with the Office of the Register of Deeds in McNairy County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

5. Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the town recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

6. Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

7. Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (Ord. #325, as replaced by Ord. #417, § 4, March 1993, and Ord. #526, May 2006)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the town and dispose of such animal in such manner as the town shall direct. (Ord. #325, as replaced by Ord. #417, § 5, March 1993, and Ord. #526, May 2006)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such

a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (Ord. #325, as replaced by Ord. #417, § 6, March 1993, and Ord. #526, May 2006)

13-107. Accumulation of furniture and waste on porches, lawns or public right of way. 1. It shall be unlawful for any person to permit any furniture or other household goods, including, but not limited to, sofas, divans, recliners, refrigerators, ranges, washing machines, clothes dryers, and similar objects, which are not designed for outdoor use, to be maintained or located on any porch, lawn, parking lot, driveway or public right-of-way.

2. It shall be unlawful for any person to permit the accumulation of construction waste upon a lot in the Town of Selmer. The term "construction waste" shall mean materials from construction, demolition, remodeling, construction site preparation, including but not limited to rocks, trees, debris, dirt, bricks, fill, plaster, and all types of scrap building materials.

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

(4) It shall be unlawful for any person to place any items on or near a curb/street for bulk pickup by the street and sanitation department, except at the designated and published times for such bulk pickup. Any violation of this ordinance will cause the street and sanitation department to remove the items, and the occupant of the affected premises shall then be billed for the cost of such pickup in an amount not less than two hundred fifty dollars ($250.00). Failure of the occupant of the affected premises to pay such bill within ten (10) days of its presentation shall result in such bill being added to the garbage portion of the occupant's utility bill from the Town of Selmer, and collected in the prescribed manner of collecting utility bills.

In addition to the recovery of the cost of such violation, any violation of this ordinance shall subject the offender to the penalty prescribed in § 13-108. (Ord. #325, as replaced by Ord. #417, § 7, March 1993, and Ord. #526, May 2006, and amended by Ord. #679, April 2020 ***Ch8_06-29-23***)

13-108. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

(Ord. #325, as replaced by Ord. #417, § 8, March 1993, and Ord. #526, May 2006)

13-109. [Deleted.] (Ord. #325, as replaced by Ord. #417, § 9, 1993, and Ord. #526, May 2006)

13-110. [Deleted.] (Ord. #325, as replaced by Ord. #417, § 10, 1993, and Ord. #526, May 2006)

13-111. [Deleted.] (Ord. #325, as replaced by Ord. #417, § 11, 1993, and Ord. #526, May 2006)

13-112. [Deleted.] (Ord. #325, as replaced by Ord. #417, § 12, 1993, and Ord. #526, May 2006)

13-113. [Deleted.] (Ord. #325, as replaced by Ord. #417, § 13, 1993, and Ord. #526, May 2006)

CHAPTER 2

SLUM CLEARANCE

SECTION

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

13-201. Findings of board. Pursuant to Tennessee Code Annotated, §13-21-101, et seq., the board of mayor and aldermen finds that there exists or may exist in the future in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. (as added by Ord. #526, May 2006)

13-202. Definitions. 1. "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

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

3. "Municipality" shall mean the Town of Selmer, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

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

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

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

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

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

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

10. "Board of appeals" means the board created in title 12 of the Selmer Municipal Code to hear appeals of orders made by the building inspector relative to the 2003 International Building Code. (as added by Ord. #526, May 2006)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (as added by Ord. #526, May 2006)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the board of appeals at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board of appeals. (as added by Ord. #526, May 2006)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the board of appeals determines

that the structure under consideration is unfit for human occupation or use, the board of appeals shall state in writing their finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

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

2. If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #526, May 2006)

13-206. When public officer may repair. etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words:

"This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #526, May 2006)

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #526, May 2006)

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of McNairy County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and

interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of McNairy County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Selmer to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #526, May 2006)

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Selmer. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (as added by Ord. #526, May 2006)

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of McNairy County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #526, May 2006)

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the board of appeals served pursuant to this chapter may file a

complaint in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the board of appeals, such person shall file such complaint in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the board of appeals shall be entitled to recover any damages for action taken pursuant to any order of the board of appeals, or because of noncompliance by such person with any order of the board of appeals. (as added by Ord. #526, May 2006)

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

1. To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;
2. To administer oaths, affirmations, examine witnesses and receive evidence;
3. To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
4. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
5. To delegate any of the functions and powers under this chapter to such officers and agents as they may designate. (as added by Ord. #526, May 2006)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #526, May 2006)

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

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #526, May 2006)

CHAPTER 3

JUNKYARDS

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

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

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

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

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

5. "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the town. (as added by Ord. #526, May 2006)

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (as added by Ord. #526, May 2006)

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

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

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

3. Architectural barriers. The utilization of: a. Panel fences made of metal, plastic, fiberglass, or plywood.

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

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

4. Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (as added by Ord. #526, May 2006)

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

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

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

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

4. At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (as added by Ord. #526, May 2006)

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the town.

If not replaced within sixty (60) days the town shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in

the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the town. (as added by Ord. #526, May 2006)

13-306. Utilization of highway right-ot-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (as added by Ord. #526, May 2006)

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

1. The junkyard must continue to be lawfully maintained.
2. There must be existing property rights in the junk or junkyard.
3. Abandoned junkyards shall no longer be lawful.
4. The location of the junkyard may not be changed for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the town.
5. The junkyard may not be extended or enlarged. (as added by Ord. #526, May 2006)

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

1. Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The town's fiscal year begins on July 1 and ends on June 30 the year next following.
2. Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars ($50.00) which is not subject to either proration or refund.
3. All applications for an original or renewal permit shall be made on a form prescribed by the town.
4. Permits shall be issued only to those junkyards that are in compliance with these rules.
5. A permit is valid only while held by the permittee and for the location for which it is issued. (as added by Ord. #526, May 2006)

13-309. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #526, May 2006)

CHAPTER 4

ABANDONED MOTOR VEHICLES ON PRIVATE PROPERTY

SECTION

13-401. Restrictions on keeping.
13-402. Violations.
13-403. Notice to suspected violators.
13-404. Failure to comply with notice.
13-405. Removal of offending vehicles by building inspector/code enforcement or chief of police.
13-406. Authority of town personnel to enter private premises.
13-407. Deadline for abating nuisance privately.
13-408. Each day constitutes a separate offense.

13-401. Restrictions on keeping. It shall be unlawful to park, store, or leave, or to permit the parking or storing of any licensed or unlicensed motor vehicle of any kind, for a period in excess of seventy-two (72) hours, which is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the town, unless the same is completely enclosed within a building or unless it is connected with a business enterprise operated in a lawful place and manner and licensed as such and when necessary to the operation of such business enterprise. (as added by Ord. #526, May 2006)

13-402. Violations. The accumulation and storage of one (1) or more such vehicles in violation of the provisions of this chapter shall constitute rubbish and unsightly debris, and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the Town of Selmer, and it shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the private property upon which such motor vehicle is located whether as owner, tenant, occupant, lessee, or otherwise to remove the same to a place of lawful storage, or to have the motor vehicle housed within a building where it will not be visible from the street. (as added by Ord. #526, May 2006)

13-403. Notice to suspected violators. Whenever there is reasonable grounds to believe that a violation of a provision of this chapter exists, the building inspector/code enforcement officer or chief of police will give, or cause to be given, written notice that said motor vehicle violates the provisions of this chapter and demand that said motor vehicle be removed to a place of lawful storage within ten (10) days of the mailing of such notice, or within ten (10) days of the mailing of such notice said motor vehicle be housed in a building where it will not be visible from the street and advise of the intention of the building

inspector/code enforcement officer or chief of police to remove and impound such motor vehicle if it has not been so removed or housed at the end of such time. Such notice will be given by:

1. Affixing notice on such motor vehicle;
2. Sending notice by mail to the owner of such motor vehicle at his last known address if the owner is reasonably ascertainable; and
3. By sending notice by mail to the person owning or controlling the property on which the motor vehicle is located.
4. By personal service of such notice to the owner of such motor vehicle or to the person owning or controlling the property on which the motor vehicle is located. (as added by Ord. #526, May 2006)

13-404. Failure to comply with notice. Any person who fails, neglects or refuses to remove the abandoned, wrecked, junked, partially dismantled or inoperative motor vehicle or to house the same and abate said nuisance in accordance with the notice given pursuant to the provisions of §13-403 of this chapter, shall be in violation of the provisions of this chapter and shall be guilty of a misdemeanor. (as added by Ord. #526, May 2006)

13-405. Removal of offending vehicles by building inspector/code enforcement officer or chief of police. In addition to and not in lieu of any other procedure prescribed in this chapter or in this code for removal of abandoned motor vehicles from private property, if the registered owner of such vehicle which is in violation of this chapter or the owner or person in lawful possession or control of the private property upon which same is located shall fail, neglect, or refuse to remove or house such abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle in accordance with the notice given pursuant to the provisions of §13-403 of this chapter, the building inspector/code enforcement officer or chief of police may remove and impound said motor vehicle until lawfully claimed. If not lawfully claimed within a period of ten (10) days, the chief may dispose of such vehicle at public sale and he may thereafter maintain an action in the name of the Town of Selmer, in the appropriate court, against any person, or persons upon whom notice was served as required by §13-403 of this chapter to recover the cost of removing, impounding, and disposing of such motor vehicle in the event the proceeds of any sale thereof shall be insufficient to recover such cost. Any such unsatisfied cost shall become a lien upon the real property upon which said motor vehicle was located in violation of this chapter, said lien to be satisfied as any other delinquent tax lien. (as added by Ord. #526, May 2006)

13-406. Authority of town personnel to enter private premises. The building inspector/code enforcement officer or chief of police or any regularly employed and salaried officer of the police department of the Town of Selmer, contracting agents of the Town of Selmer, and employees of such contracting

agents, and authorized office employees and agents of the Town of Selmer, and each of them, are hereby expressly authorized to enter upon property for the purpose of enforcing the provisions of this chapter. It shall be unlawful for any person to interfere with, hinder, or refuse to allow them to enter upon private property for such purpose and to remove any motor vehicle in accordance with the provision of this chapter. (as added by Ord. #526, May 2006)

13-407. Deadline for abating nuisance privately. Any person to whom notice was given pursuant to §13-403 of this chapter shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense at any time prior to the arrival of the building inspector/code enforcement officer or chief of police or his authorized representatives for the purpose of removal of said motor vehicle. (as added by Ord. #526, May 2006)

13-408. Each day constitutes a separate offense. Each day any violation under this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. (as added by Ord. #526, May 2006)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER
1. MUNICIPAL PLANNING COMMISSION.
2. GENERAL PROVISIONS RELATED TO ZONING.
3. [Deleted.]
4. [Deleted.]
5. [Deleted.]
6. [Deleted.]
7. [Deleted.]
8. [Deleted.]
9. [Deleted.]
10. [Deleted.]
11. [Deleted.]
12. [Deleted.]
13. [Deleted.]
14. [Deleted.]
15. [Deleted.]
16. [Deleted.]
17. SELMER MOBILE HOME PARK ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

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

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission for the Town of Selmer. The planning commission shall consist of seven (7) members. One (1) of the members shall be the mayor of the municipality or a person designated by the mayor and one (1) of the members shall be a member of the chief legislative body of the municipality selected by that body. The other members of the planning commission shall be appointed by the mayor. Except for the initial appointments, the terms if the appointive terms of the planning commission shall be for three (3) years each. The terms of the first members shall be appointed for terms of one, two, three, four, and five years, respectively so that the term of one member expires each year. Two (2) of the members shall reside within the regional area outside the municipal boundaries in accordance

with Tennessee Code Annotated, § 13-3-102 as amended by public chapter No. 253, Public Acts 2007 and as referenced in § 14-102 of this municipal code. The terms of the mayor or the mayor's designee and the member elected by the board of mayor and alderman shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor who shall also have the authority to remove any appointive member at his or her pleasure. (Code of 1977, § 11-101, as amended by Ord. #566, Aug. 2007 and Ord. #572, March 2008)

14-102. Organization, powers, duties, etc. The planning commission shall have such organization, rules, staff, powers, functions, duties, and responsibilities as are prescribed in the general law relating to municipal planning commissions in title 13 of the Tennessee Code Annotated. (Code of 1977, § 11-102)

CHAPTER 2

GENERAL PROVISIONS RELATED TO ZONING

SECTION

14-201. Land use to be governed by zoning ordinance.
14-202. [Deleted.]

14-201. Land use to be governed by zoning ordinance.[1] Land use within the Town of Selmer shall be governed by Ord. #539, July 11, 2006, referred to as the Selmer Municipal Zoning Ordinance Map, and any amendments thereto. (Code of 1977, § 11-201)

14-202. [Deleted.] (Code of 1977, § 11-202, as deleted by Ord. #539, July 2006)

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[1]Ordinance No. 539, and any amendments thereto are available in the office of the recorder.

CHAPTER 3

[as deleted by Ord. #539, July 2006]

CHAPTER 4

[as deleted by Ord. #539, July 2006]

CHAPTER 5

[as deleted by Ord. #539, July 2006]

CHAPTER 6

[as deleted by Ord. #539, July 2006]

CHAPTER 7

[as deleted by Ord. #539, July 2006]

CHAPTER 8

[as deleted by Ord. #539, July 2006]

CHAPTER 9

[as deleted by Ord. #539, July 2006]

CHAPTER 10

[as deleted by Ord. #539, July 2006]

CHAPTER 11

[as deleted by Ord. #539, July 2006]

CHAPTER 12

[as deleted by Ord. #539, July 2006]

CHAPTER 13

[as deleted by Ord. #539, July 2006]

CHAPTER 14

[as deleted by Ord. #539, July 2006]

CHAPTER 15

[as deleted by Ord. #539, July 2006]

CHAPTER 16

[as deleted by Ord. #539, July 2006]

CHAPTER 17

SELMER MOBILE HOME PARK ORDINANCE

SECTION

14-1701. Jurisdiction.
14-1702. Definitions.
14-1703. Permits
14-1704. Fees.
14-1705. Inspection services.
14-1706. Application procedure.
14-1707. Development site.
14-1708. Site improvements.
14-1709. Transportation system.
14-1710. Utilities.
14-1711. Mobile home site.
14-1712. Service facilities.
14-1713. Miscellaneous requirements.
14-1714. Enforcement.
14-1715. Amendment.

14-1701. Jurisdiction. The regulations established within this chapter shall govern all mobile home parks within the city. Any owner of land within this area wishing to develop a mobile home park shall submit to the procedures outlines in this chapter and shall make those improvements necessary to comply with the minimum standards of this chapter. (as added by ord. #415, § 1, Sept. 1992)

14-1702. Definitions. Except as specifically defined herein, all words used in this chapter have their customary dictionary definition where not inconsistent with the context. The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural. Words used in the present tense include the future. For the purpose of this chapter certain words or terms are defined as follows:

(1) "Approved." Means acceptable to the appropriate authority having jurisdiction.

(2) "Building code." Unless otherwise designated, this term shall mean the Southern Standard Building Code and its amendments.

(3) "Building inspector." The person appointed by the Selmer Board of Mayor and Aldermen having jurisdiction over the city for the enforcement of the building code and other local developmental regulations, including this chapter.

(4) "Common area." Any area or space designed for joint use tenants occupying mobile home developments.

(5) "Developer." The person, firm, or corporation having a proprietary interest in a mobile home park for the purpose of preceding under this chapter.

(6) "Diagonal tie." Any tie down designated to resist horizontal forces and which does not deviate less than 30 degrees from a vertical direction.

(7) "Electric feeder." That part of the electric distribution system between the transformer and the electrical connections of a mobile home.

(8) "Ground anchor." Any device at a mobile home stand designed for the purpose of securing a mobile home to the ground.

(9) "Health officer." The director of the county or district health department having jurisdiction over the community health in the city, or his duly authorized representative.

(10) "Internal street." In a privately owned mobile home park, this term shall mean a private street owned, constructed, and maintained by the developer which provides access to all spaces and facilities for common use by park occupants.

(11) "Mobile home (trailer)." A detached single-family dwelling unit with any or all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailer or detachable wheels.

(c) Arriving at the site where it is to be occupied as a complete dwelling including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, locations of foundation supports, connection to utilities and the like.

(12) "Mobile home lot." A parcel of land rented for the exclusive use of the occupants of a single mobile home.

(13) "Mobile home park." A parcel of land within the city under single ownership which has been improved for the placement of two (2) or more mobile homes for nontransient use.

(14) "Mobile home stand." That part of land subdivided into lots, each lot individually owned to utilize as the site for placement of a single mobile home and its facilities.

(15) "Occupied area." The total of all of the lot area covered by a mobile home and its accessory buildings on a lot or space.

(16) "Plat." A map or plan of an area indicating the location and boundaries of individual properties.

(17) "Service buildings." A structure housing a toilet, laundry facilities, office, or storage space.

(18) "Sewer connection." Consists of all pipes and fittings from the drain outlet of the mobile home to the inlet of the sewerage disposal system.

(19) "Site plan." This shall be the document, the contents of which are outlined within this chapter representative of the physical design of the mobile home park.

(20) "Subdivision regulations." This term shall refer to the subdivision regulations adopted by and in force within the city.

(21) "Tie down." Any device designed for the purpose of attaching a mobile home to ground anchors.

(22) "Travel trailer." A vehicular portable structure designed as a temporary dwelling for travel, recreational, and vacation uses, which:

(a) is identified on the unit by the manufacturer as a travel trailer;

(b) is not more than eight (8) feet in body width;

(c) is of any weight provided its body length does not exceed 29 feet; or

(d) is of any length provided its gross weight, factory equipped for the road, does not exceed 4,500 pounds.

(23) "Water connection." Consists of all pipes and fittings from the water inlet pipe of the mobile home to the outlet of the water distribution system.

(24) "Yards." That area on the mobile home lot or space between all lot or space lines and the sides of the mobile home and its attachments.

(25) "Zoning ordinance." This term shall mean the zoning ordinance adopted by and in force within the city. (as added by ord. #415, § 1, Sept. 1992)

14-1703. Permits. The following requirements for permits shall apply to any mobile home park within the city. The purpose of these permits shall be to provide contents to assure compliance with this chapter and other existing chapters; the public welfare demanding such.

(1) No place or site within Selmer shall be established by any group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the building inspector in the name of such person or persons for the specific mobile home park.

(2) It shall be unlawful for any person or persons to maintain or operate, within Selmer, any existing mobile home park unless such person or persons first obtain a permit therefor. Mobile home parks in existence as of the effective date of this chapter[1] shall be required to obtain a mobile home park permit. Preexisting mobile home parks which cannot comply with the requirements regarding mobile home parks shall be considered as a non-conforming use.

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[1]This chapter was added by ord. #415 which passed third reading Sept. 8, 1992.

(3) Every person holding a mobile home park permit shall give notice in writing to the building inspector within twenty-four (24) hours after having sold, transferred, given away, or otherwise disposed of interest and in control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership of control of such mobile home park for the purpose of transferring the permit.

(4) No mobile home park in Selmer shall operate without the appropriate city and county business permits or licenses.

(5) It shall be unlawful to construct any building including accessory buildings, to move or alter any building, or locate a mobile home on any lot or space until the building inspector has issued a building permit for such use.

(6) Any permit issued shall become void six (6) months from the date of issuance unless substantial efforts have been made by that date to exercise that power permissible by the permit.

(7) Any use, arrangement, or construction at variance with those originally authorized plans submitted as a basis for any permit shall be deemed a violation of this chapter and void the permit.

(8) In accordance with Tennessee State Law, a permit for the installation of the mandatory mobile home anchoring system is required and obtainable from the appropriate state inspector.

(9) No mobile home shall be used, place, stored or serviced by utilities within Selmer or within any mobile home park in the city unless there is posted near the door of said mobile home a valid Tennessee State License or a HUD inspection sticker.

(10) The building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter. (as added by ord. #415, § 1, Sept. 1992)

14-1704. Fees. In order to assure a more cost effective system for the provision of inspection services, permit fees are hereby established as follows:

(1) Mobile home park permit fee - An annual mobile home inspection fee shall be required for all mobile home parks within Selmer. This fee for the mobile home park permit shall be collected by the building inspector.

(2) Business permit (license) fees - Appropriate city and county fees are required for business permits and license and shall be obtained prior to the construction of any mobile home park within Selmer.

(3) Electrical inspection fee - An electrical inspection fee is required and shall be levied in accordance to Tennessee statutes for inspection services recommended.

(4) Anchoring fee - The state anchoring system inspection fee as required by Tennessee statutes shall be levied in accordance with said statutes.

(5) Tennessee license fee - A state license fee for mobile homes is required by Tennessee statutes and shall be levied in accordance with said statutes. (as added by ord. #415, § 1, Sept. 1992)

14-1705. Inspection services. The building inspector, county health officer and all other authorized inspectors are hereby authorized and directed to make inspections within Selmer for the purpose of safeguarding the health and safety of the occupants of mobile home parks and of the general public. These representatives on behalf of Selmer shall have the authority to enter at reasonable times upon any private or public property for the purpose of inspections and investigations related to the performance of their duties concerning the enforcement of this chapter and other related regulations. Specifically, their inspections shall include but not be limited to the following duties:

(1) Building inspector - Upon inspection of a mobile home park or a mobile home by the building inspector, the following actions shall be undertaken for compliance with this chapter and other related regulations of Selmer which apply:

(a) Sections 14-1707 through 14-1713 of this chapter concerning the minimum standards acceptable for the development and operation of a designated mobile home park.

(b) Appendix "H" of the Southern Standard Building Code outlining minimum mobile home standards.

(c) A review shall be conducted of all necessary permits for not only the park but also individual mobile homes with all violations reported by the building inspector to the appropriate authority.

(d) A visual review of the general health and safety conditions with any possible violations noted and reported by the building inspector to the appropriate authority.

(2) County health officer - The State Department of Public Health shall make inspections of the water system, sewage disposal system, and solid waste disposal facilities in accordance with sections 53-3201 and 53-3220[1] of the Tennessee Code Annotated and other state regulations.

(3) Electrical inspection. The electrical inspector shall make inspections in accordance with those powers designated by the appropriate state regulations.

(4) Anchorage inspector - The anchorage inspector shall make inspections of the mobile home anchorage and tie down facilities in accordance with section 68-36-405 of the Tennessee Code Annotated and the State Fire Marshall's Office.

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[1]These sections were transferred to T.C.A. sections 68-24-101 and 68-24-120 and repealed by Acts 1989, ch. 228, section 1. However, the chapter heading of the repealed sections was transferred to chapter 125 during the reorganization of T.C.A., title 68 in 1992. These provisions were codified as they appeared in Ord. #415, Sept. 1992.

(5) The officials noted in the above subsection in the performance of their respective duties shall have the authority to inspect that register containing a record of all residents of a mobile home park.

(6) It shall be the duty of the owners or occupants of mobile home parks and mobile homes or of the person in charge thereof to give the designated inspectors free access to such premises at reasonable time for the purpose of inspection.

(7) It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of such mobile home park or its premises at reasonable times for the purpose of making alterations as are necessary to comply with this or other local regulations.

(8) Upon inspection of any mobile home park in which conditions or practices exist in violation of this chapter or other related regulations, the building inspector shall give notice in writing to the person to whom the permit was issued that unless such conditions or practices are corrected within a six (6) month period, the mobile home park shall be revoked and the operation of the mobile home park shall cease operation. (as added by ord. #415, § 1, Sept. 1992, modified)

14-1706. Application procedure. (1) The developer shall consult early and informally with the planning commission and all applicable city departments for advice and assistance before the preparation of the site plan and the formal application for approval in order to become familiar with all regulations and area plans.

(2) Applications for a mobile home park shall be filed with the planning commission for review and recommendation. Plans of the proposed mobile home park shall be filed with the building inspector at least seven (7) days prior to the planning commission meeting at which it is to be considered. The plan shall contain the following information and conform to the following requirements:

(a) The plan shall be clearly and legibly drawn to a scale not smaller than one hundred (100) feet to one (1) inch;

(b) Name and address of owner of record;

(c) Proposed name of park and the total acreage involved;

(d) Existing zoning classification;

(e) North point and graphic scale and date;

(f) Vicinity map showing location and acreage of mobile home park;

(g) Exact boundary lines of the tract by bearing and distance;

(h) Names of owners of record of adjoining land;

(i) Existing streets, utilities, easements and water courses on and adjacent to the tract;

(j) Contour lines at 2' intervals or as required by the planning commission with input from the city engineer;

(k) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;

(l) Provisions for water supply, sewerage and drainage;

(m) Such information as may be required by the city to enable it to determine if the proposed park will comply with legal requirements;

(n) The applications and all accompanying plans and specifications shall be filed in triplicate with the building inspector;

(o) Certification that the applicant is the land owner;

(p) Certification by the state health officer concerning the acceptability of the sewage disposal and water system;

(q) Certification of approval by the city engineer;

(r) Certification of approval to be signed by the secretary of the planning commission;

(3) Within sixty (60) days after submission of the site plan, the planning commission will review it and recommend approval or disapproval, or approval subject to modification. If disapproved, reasons for such shall be stated in writing.

(4) The planning commission recommendation shall be forwarded to the board of mayor and aldermen for final approval, provided that, where modifications have been required of the applicant which are to appear on the site plan, such changes, as recommended by the planning commission, shall have been made. (as added by ord. #415, § 1, Sept. 1992)

14-1707. Development site. (1) The proposed mobile home park shall be located only in zones as prescribed by the Selmer Zoning Ordinance.

(2) The development site shall be suitable for residential use. It shall not be subject to hazards such as insect or rodent infestation, objectionable smoke, noxious odors, unusual noise, or the probability of flooding or erosion. The soil, ground water level, drainage, and topography shall not create hazards to the property or to the health and safety of occupants.

(3) The development site for a mobile home park shall comprise an area of not less than ten (10) acres. All sites shall consist of a single plat so dimensioned and related as to facilitate efficient design and management.

(4) Essential community facilities and services for residential development shall be reasonably accessible to the development site or provisions shall be made to assure that such facilities and services will be provided.

(5) Direct vehicular access to the development site shall be provided by an abutting improved public street of at least a "collector" classification (as shown on the city's major street plan). (as added by ord. #415, § 1, Sept. 1992)

14-1708. Site improvement. (1) Site improvements shall be harmoniously and efficiently developed in relation to topography and the shape of the site.

Full attention should be paid to use, appearance, and livability. Site improvements shall be fitted to the terrain with a minimum disturbance of the land. Existing trees, rock formations, and other natural site features should be preserved to the extent practical.

(2) When necessary, grading shall be utilized to preserve desirable site features through the diversion of surface water away from mobile home stands, the prevention of standing water and excess soil saturation, and the disposal of water from each mobile home space or lot. In no cases, however, shall grading be permitted to direct excessive surface water flow onto adjacent property.

(3) In the case of fill work at the development site, material shall be uniform in texture and free from debris. Fill material shall be applied in uniform layers, raked and compacted to minimize settlement.

(4) Specific areas for the collection and disposal of surface and subsurface water shall be provided to protect the mobile home and provide safe use of other improvements. Surface water shall be directed toward existing off-site drainage facilities located in public right-of-ways. Internal drainage facilities shall be of adequate size, design, and construction and assured of permanent maintenance through easements or other means.

The planning commission upon advice from technical staff such as the city engineer or Planning staff may require other drainage measures such as interjectional drains, drop inlets, bridges, etc., as deemed necessary.

(5) Exposed ground surfaces in all parts of every development site shall be either paved, covered with stone or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(6) An evergreen buffer strip consisting of trees shrubs, or hedge which will grow to a height of not less than ten (10) feet and be spaced not less than ten (10) feet apart shall be planted along all boundaries of the mobile home park. It is also recommended that trees or shrubs be utilized for internal screening of garbage collectors and to provide adequate privacy among the units.

(7) The provision of designated open space and recreation areas is encouraged to the extent necessary to meet the anticipated needs of the occupants. A centralized location is preferable for convenience and efficient maintenance. (as added by ord. #415, § 1, Sept. 1992)

14-1709. Transportation system. (1) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot and other improvement park facilities. Access shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic.

(2) The street system shall be designed to recognize existing easements, utility lines, etc., which must be preserved and to permit connection of existing facilities where necessary for the proper functioning of the drainage and utility systems. Streets shall also be adapted to the topography, have

suitable alignment for traffic safety, and have satisfactory surface and ground water drainage.

(3) All streets either public or internal (private) shall be constructed to the standards established in the Selmer Subdivision Regulations.

(4) Before any proposed street may be constructed, the area must first be inspected by the city engineer who will at that time review the size of culvert necessary, to prevent future drainage problems. The developer will be responsible for the provision of specified culvert and in the manner as is indicated by the city engineer.

(5) Surfaced streets are required, and all streets shall meet the technical specification for base and asphaltic concrete paving as required in the Selmer Subdivision Regulations.

(6) All streets located within a mobile home park shall be illuminated with lighting units consisting of 400 watt mercury vapor lamps at intervals of 100 feet approximately 30 feet from the ground.

(7) Off-street parking areas shall be provided in all mobile home parks for the use of the occupants and guests without interference with the normal movement of traffic. All parking spaces shall be located so access can be gained only from internal streets of the mobile home park. Specific parking facility requirements are detailed in section 14-1711(10).

(8) All mobile home parks shall be provided with safe and convenient pedestrian access between mobile homes and park facilities. A common walk system is recommended for those areas in which pedestrian traffic is concentrated in a large development. (as added by ord. #415, § 1, Sept. 1992)

14-1710. Utilities. (1) Water supply. An adequate supply of safe water under adequate pressure shall be provided in each mobile home park. Where a public supply of water is satisfactory quantity, quality, and pressure is available, connection shall be to this system and used exclusively.

(a) The bacteriological and chemical quality of the water shall be acceptable to the McNairy County Health Officer in accordance with minimum requirements for the State of Tennessee.

(b) The source of water supply shall be capable of supplying a minimum volume of 250 gallons of water per day per mobile home with pressure of not less than twenty (20) pounds residential pressure per square inch under normal operating conditions at each mobile home. The individual size of the feeder water lines shall be a minimum of 6" or more as required by the city engineer.

(c) The water system must be adequate to provide 500 gallons per minute fire flow and maintain a 20 psi residential pressure. All fire hydrants shall be located at no distances beyond 400 feet.

(d) The water supply system shall be connected by pipes to all mobile homes and other facilities requiring water in such a manner that neither underground nor surface contamination will reach the water from

any source. All water piping, fixtures, and other equipment shall be constructed and maintained in accordance with the Southern Standard Plumbing Code and Tennessee State Health regulations. Written approval from the Tennessee Department of Public Health shall be required for all water line extensions.

(e) In the case of all developments, the fire hydrants shall be the 3 way type as specified by city standards.

(2) Sewage disposal. An adequate and safe sewerage disposal system shall be provided in all mobile home parks for conveying and disposing of all sewage. Mobile home parks must connect to a satisfactory public sewage disposal system. In no case will a septic tank system or package treatment plant be approved. In addition, the sewage disposal system shall meet the following general requirements:

(a) The sewage disposal system shall be approved in writing by the Tennessee State Health Department and subject to maintenance inspections.

(b) All sewer lines shall be located in trenches of sufficient depth to prevent breakage from traffic or other movements and constructed in such a manner as to have water tight joints. Sewer lines shall be separated from the water supply system and be constructed and maintained in accordance with the Southern Standard Plumbing Code and Tennessee State Health Regulations.

(c) All sewer lines shall be at a grade which will insure a velocity of two feet per second when flowing full and designed for a minimum volume flow of 250 gallons of sewage per day per mobile home.

(3) Electrical distribution. Every mobile home park shall contain an electrical wiring system consisting of wiring, fixtures, and equipment installed and maintained in accordance with the applicable codes and regulations governing electrical distribution systems. The electrical distribution system shall also meet the following general requirements:

(a) Main primary lines not located underground shall be suspended at least eighteen (18) feet above the ground. There shall be a minimum horizontal clearance of three (3) feet between overhead wiring and any mobile home or other structure.

(b) All direct buried cables shall be without splices or taps between junction boxes and protected by ridged conduit at all points of entry or exit from the ground. Such cables shall be located no less than eighteen (18) inches below the ground surface and located in a separate trench not less than one (1) foot radial distance from water, sewer, gas, and other piping.

(c) Demand factors for feeder and service lines shall be calculated in accordance with the Southern Standard Building Code to determine the appropriate line sizes.

(4) Gas supply. Natural gas and liquefied petroleum gas systems equipment and installations within a mobile home park shall be designed and constructed in accordance with the applicable codes and regulations. The natural gas supply system shall meet the following general requirements:

(a) Underground piping shall be buried at a sufficient depth to protect it from physical damage as outlined in the Southern Standard Gas Code. No piping shall be installed underground beneath a mobile home or other structure.

(b) All gas regulators, meters, valves and other exposed equipment shall be protected from physical damage by vehicles or other causes.

(c) A readily accessible and identified emergency shut-off valve controlling the flow of gas to the entire internal gas piping system of a mobile home park shall be installed near to the point of connection to the service piping.

(d) Demand factors for use in calculating gas piping accordance with the Standard Gas Code.

(5) Oil supply. Oil supply systems equipment and installations within a mobile home park shall be designed in accordance with the applicable codes and regulations. Oil may be supplied by either an outside underground tank, an outside above ground tank or a centralized oil distribution system designed and installed in accordance with accepted engineering practices which comply with national codes.

(6) Garbage disposal. The storage, collection, and disposal of refuse in a mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. A commercial dumpster system shall be utilized exclusively for solid waste disposal. In addition, the refuse disposal system shall meet the following general requirements:

(a) All refuse shall be stored in fly proof, water tight, and rodent proof containers, which shall be located not more than 150 feet from any mobile home space or lot. These containers shall be located not more than 150 feet from any mobile home space of lot. These containers shall be located on concrete dumpster pads designed to prevent or minimize spillage and container deterioration.

(b) A sufficient number of containers of adequate capacity in accordance with city approval shall be provided to properly store all refuse. The refuse within these containers shall be collected and disposed of on at least a weekly basis in the approved manner. (as added by ord. #415, § 1, Sept. 1992)

14-1711. Mobile home site. (1) Every mobile home site shall meet the minimum requirements set forth in this section for the development of individual sites. These criteria are for the purpose of assuring privacy, adequate

natural light and air, and convenient access and circulation around each mobile home.

(2) Within mobile home parks. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least twenty-eight (28) feet of open space between mobile homes or any attachment such as a garage or porch, and at least thirty (30) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and fifty (50) feet from the right-of-way of any public street or highway. In addition, each mobile home space shall contain:

(a) A minimum lot area of four thousand (4,000) square feet.

(b) A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet.

(c) A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet; and

(d) A minimum width of at least forty (40) feet and a minimum depth of at least seventy-five (75) feet with the limits of each mobile home space being clearly marked by permanent ground stakes.

(3) Each mobile home space shall have an area designated as a mobile home stand or pad which meets all the setback requirements and affords practical access for the placement and removal of a mobile home. It is recommended that these stands consist of runways (24" wide) running vertical to the mobile home and spaced, at a minimum, every eight (8) feet for the length of the mobile home. These piers shall meet the following construction requirements or the Southern Standard Building Code whichever is the most restrictive:

(a) Piers less than forty (40) inches in height shall be constructed of open or closed cell, eight (8) inch by eight (8) inch by sixteen (16) inch concrete blocks (with open cells vertically placed upon the footer). Single-stacked block piers shall be installed with sixteen (16) inch dimension perpendicular to the main (I-beam) frame. The piers shall be covered with a two (2) inch by eight (8) inch by sixteen (16) inch wood or concrete cap.

(b) Piers between forty (40) and eighty (80) inches in height and all corner piers over three blocks high shall be double blocked with blocks interlocked and capped with a four (4) inch by sixteen (16) inch wood or concrete cap.

(4) All mobile homes shall be secured to the site through an anchorage system consisting of over the top tie downs to restrict overturning and frame tie downs to restrict the unit from being pushed from its piers. These tie downs shall meet the anchorage requirements specified by Tennessee State Statutes and the Southern Standard Building Code for installation and inspection requirements.

(5) An individual water connection shall be provided at each site with at least a 3/4 inch connecting water riser pipe. This pipe shall extend in a vertical position at least four (4) inches above ground level at the appropriate location. Adequate provisions shall be made to prevent the freezing of service lines, valves, and riser pipe. The riser pipe shall be capped when the site is unoccupied. At each site a shut off valve located below the frost line shall be provided near the water riser.

(6) Each site shall be provided with at least four (4) inch corrosive resistant sewer riser pipe. This pipe shall extend in a vertical position at least four (4) inches above the ground level at the appropriate location. This service pipe shall consist of water tight joints and slope at least one-fourth (1/4) inch per foot to a collector line. Provisions shall be made to plug the drain when the site is unoccupied. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

(7) Electrical service drops from feeder distribution lines shall be provided, installed, and maintained in accordance with the National Electrical Code and Tennessee Department of Insurance and Banking Regulations Number 15, entitled "Regulations Relating". A weather-proof overcurrent protection device and disconnecting means shall be provided for each site. All exposed non-current carrying metal parts of the mobile home shall be properly grounded.

(8) Each site provided with natural or liquified petroleum shall have an approved manual shut off valve installed upstream of the gas outlet. Underground piping shall be at a sufficient depth to be protected from physical damage and shall not be installed beneath a mobile home stand unless it is installed in an approved gas tight conduit. Liquified petroleum gas or oil containers shall be securely but not permanently fastened to prevent accidental over-turning. No containers shall be stored within or beneath any mobile home. All gas or oil systems shall be installed and maintained in accordance with the applicable codes and regulations governing such systems.

(9) Off-street parking spaces shall be provided in sufficient number to meet the needs of the occupants and their guests. Such facilities shall be provided at the rate of at least three (3) spaces per mobile home. The size of the individual parking space shall consist of a minimum width of not less than ten (10) feet and a length of not less than twenty-two (22) feet. Each space shall be constructed of either a hot mix or concrete hard surface.

(10) It is recommended that provision be made for external storage facilities at each site. These facilities should be designed in a manner that would enhance the appearance of the development. (as added by ord. #415, § 1, Sept. 1992)

14-1712. Service facilities. (1) The requirements of this section shall apply to permanent service facilities including, but not limited to management offices, laundry facilities, sanitary facilities. Such facilities are required for

developments for the convenience of the occupants. All recreational open space shall consist of a minimum area of not less than 100 square feet per space.

(2) The growth of brush, weeds, and grass in open areas shall be controlled and maintained to prevent heavy undergrowth of any description. Special emphasis shall be on the preventing of the growth of ragweed, poison ivy, poison oak, poison sage, and other noxious weeds considered to be detrimental to health.

(3) Care shall be taken to control dry brush, litter, rubbish and other such flammable materials which might communicate fire between mobile homes and other structures.

(4) A mobile home shall not be occupied for dwelling purposes unless it is properly installed on a mobile home stand and connected to all utilities. The park management shall supervise such installations.

(5) No mobile home shall be admitted to a mobile home park unless it can be demonstrated that it meets the requirements of the Mobile Home Standards for Plumbing, Heating, and Electrical Systems or any state administered code insuring equal or better systems. Mobile homes manufactured prior to 1976 shall be exempt from this requirement.

(6) No dogs, cats, or other domestic animals shall be permitted unrestrictive freedom within the limits of a mobile home park. Any kennels or pens for such animals shall be maintained in a sanitary condition at all times.

(7) Pre-existing mobile home parks shall comply with all state regulations applicable thereto which were in force prior to the establishment of this mobile home park chapter. Expansion shall only occur after compliance with the requirements of this chapter.

(8) Every mobile home park within Selmer shall be operated with adequate supervision to assure the park, its facilities and equipment are maintained in good repair and operated in a clean and sanitary condition at all times.

No travel trailers shall be placed on a mobile home stand or connected to utilities either in a mobile home park for occupancy at all times. (as added by ord. #415, § 1, Sept. 1992)

14-1714. Enforcement. (1) It shall be the duty of the building inspector to enforce the provisions of this chapter and the duty of those inspectors specifically mentioned in 14-1705 of this chapter to enforce those regulations under their jurisdiction as those regulations apply to this chapter.

(2) The developer or the person to whom a permit for a mobile home park is issued shall be the sole individual responsible for compliance with this chapter and the other related regulations. Actions toward the enforcement of this chapter and all other related regulations shall be directed toward the person to whom the mobile home park permit is issued. (as added by ord. #415, § 1, Sept. 1992)

14-1715. Amendment. (1) Whenever the public necessity, convenience or general welfare justifies such action, the Selmer Mayor and Board of Aldermen may amend or supplement this chapter. Any person may petition the mayor and board of aldermen for an amendment or amendments to this chapter.

(2) Any proposed amendment or supplement shall be first submitted to the planning commission for its recommendation to the mayor and board of aldermen. Absence of action after thirty-five (35) days after submission to the planning commission shall be a positive recommendation for such amendment to the board of aldermen. (as added by ord. #415, § 1, Sept. 1992)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

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

CHAPTER 1

MISCELLANEOUS

SECTION
15-101. Motor vehicle requirements.
15-102. Authorized emergency vehicles defined.
15-103. Operation of authorized emergency vehicles.
15-104. Following emergency vehicles.
15-105. Running over fire hoses, etc.
15-106. Driving on streets closed for repairs, etc.
15-107. Reckless driving.
15-108. Driving under the influence.
15-109. One-way streets.
15-110. Unlaned streets.
15-111. Laned streets.
15-112. Yellow lines.
15-113. Miscellaneous traffic-control signs, etc.
15-114. General requirements for traffic-control signs, etc.
15-115. Unauthorized traffic-control signs, etc.
15-116. Presumption with respect to traffic-control signs, etc.
15-117. School safety patrols.
15-118. Driving through funerals or other processions.
15-119. Damaging pavements.
15-120. Clinging to vehicles in motion.
15-121. Riding on outside of vehicles.
15-122. Backing vehicles.
15-123. Projections from the rear of vehicles.

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[1]For provisions relating to obstructions and/or excavations in public streets, alleys, sidewalks, and rights of way see title 16 in this code.

15-124. Causing unnecessary noise.
15-125. Vehicles and operators to be licensed.
15-126. Passing.
15-127. Bicycle riders, etc.
15-128. [Repealed.]
15-129. Vehicles over 30,000 pounds GVW required to use bypass.
15-130. Adoption of state traffic statutes.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by title 55, of the Tennessee Code Annotated. (Code of 1977, § 9-101)

15-102. 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. (Code of 1977, § 9-102)

15-103. 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 a 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

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[1]See section 15-401 in this code for provisions with respect to the operation of other vehicles upon the approach of emergency vehicles.

consequences of his reckless disregard for the safety of others. (Code of 1977, § 9-103)

15-104. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet or drive or park any vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (Code of 1977, § 9-104)

15-105. 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. (Code of 1977, § 9-105)

15-106. 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. (Code of 1977, § 9-106)

15-107. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in wilful or wanton disregard for the safety of persons or property. (Code of 1977, § 9-107)

15-108. Driving under the influence. No person shall drive or operate any automobile or other motor driven vehicle while under the influence of an intoxicant, or while under the influence of narcotic drugs, or while under the influence of drugs producing stimulating effects on the central nervous system. (Code of 1977, § 9-108)

15-109. 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. (Code of 1977, § 9-109)

15-110. 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. (Code of 1977, § 9-110)

15-111. 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. (Code of 1977, § 9-111)

15-112. 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. (Code of 1977, § 9-112)

15-113. Miscellaneous traffic-control signs, etc. 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 Town of Selmer unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (Code of 1977, § 9-113)

15-114. 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,[1] 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 Town of Selmer. This section shall not be construed as being mandatory but is merely directive. (Code of 1977, § 9-114)

15-115. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign,

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

signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicle, 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. (Code of 1977, § 9-115)

15-116. 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 municipal authority. All presently installed traffic-control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (Code of 1977, § 9-116)

15-117. 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. (Code of 1977, § 9-117)

15-118. 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. (Code of 1977, § 9-118)

15-119. Damaging pavements. No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (Code of 1977, § 9-119)

15-120. 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. (Code of 1977, § 9-120)

15-121. 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. (Code of 1977, § 9-121)

15-122. 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. (Code of 1977, § 9-122)

15-123. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (Code of 1977, § 9-123)

15-124. 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. (Code of 1977, § 9-124)

15-125. 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." (Code of 1977, § 9-125)

15-126. 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. (Code of 1977, § 9-126)

15-127. 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 handlebar.

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 to knowingly permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (Code of 1977, § 9-127)

15-128. [Repealed.] (Code of 1977, § 9-128, as repealed by Ord. #549, Dec. 2006)

15-129. Vehicles over 30,000 pounds GVW required to use bypass. All vehicles with a gross vehicle weight (GVW) over thirty thousand (30,000) pounds, except those making deliveries and or conducting business within the municipal limits, shall be required to use the Highway 64/65 bypass while traveling through the town. (as added by Ord. #441 § 1, Aug. 1995 and replaced by Ord. #442, § 1, Nov. 1995)

15-130. Adoption of state traffic statues. By the authority granted under Tennessee Code Annotated, § 16-18-302, the Town of Selmer adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, and §§ 55-8-133 through 55-8-180. Additionally, the Town of Selmer adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606, and §§ 55-12-139 and 55-21-108 by reference as if fully set forth in this section. (as added by Ord. #583, Jan. 2009)

CHAPTER 2

SPEED LIMITS

SECTION
15-201. In general.
15-202. At intersections.
15-203. In school zones.
15-204. In congested areas.

15-201. 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. (Code of 1977, § 9-201)

15-202. 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. (Code of 1977, § 9-202)

15-203. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle at a speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (Code of 1977, § 9-203)

15-204. 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 Town of Selmer. (Code of 1977, § 9-204)

CHAPTER 3

TURNING MOVEMENTS

SECTION
15-301. Generally.
15-302. Right turns.
15-303. Left turns on two-way roadways.
15-304. Left turns on other than two-way roadways.
15-305. U-turns.

15-301. 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. (Code of 1977, § 9-301)

15-302. 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. (Code of 1977, § 9-302)

15-303. 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 lines of the two roadways. (Code of 1977, § 9-303)

15-304. 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 such direction upon the roadway being entered. (Code of 1977, § 9-304)

15-305. U-turns. U-turns are prohibited. (Code of 1977, § 9-305)

CHAPTER 4

STOPPING AND YIELDING

SECTION

15-401. Upon approach of authorized emergency vehicles.
15-402. When emerging from alleys, etc.
15-403. To prevent obstructing an intersection.
15-404. At railroad crossings.
15-405. At "stop" signs.
15-406. At "yield" signs.
15-407. At traffic-control signals generally.
15-408. At flashing traffic-control signals.
15-409. Stops to be signaled.
15-410. Automated enforcement.

15-401 Upon approach of authorized emergency vehicles. Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (Code of 1977, § 9-401)

15-402. 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. (Code of 1977, § 9-402)

15-403. To prevent obstructing an intersection. No driver shall enter any intersection or marked cross walk unless there is sufficient space on the other side of such intersection or cross walk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or cross walk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (Code of 1977, § 9-403)

15-404. 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. (Code of 1977, § 9-404)

15-405. At "stop" signs. The driver of a vehicle facing a "Stop" sign shall bring his vehicle to a complete stop immediately before entering the cross walk on the near side of the intersection or, if there is no cross walk, then immediately before entering the intersection and shall remain standing until he can proceed through the intersection in safety. (Code of 1977, § 9-405)

15-406. 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. (Code of 1977, § 9-406)

15-407. 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 cross walk at the time such signal is exhibited.

b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked cross walk.

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 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 cross walk 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.

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 cross walk 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. (Code of 1977, § 9-407)

15-408. 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 by 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 cross walk 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 section 15-404 of this title. (Code of 1977, § 9-408)

15-409. 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, except in an emergency. (Code of 1977, § 9-409)

15-410. Automated enforcement. 1. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

a. "Citations and warning notices" shall include:

i. The name and address of the registered owner of the vehicle;

ii. The registration plate number of the motor vehicle involved in the violation;

iii. The violation charged;

iv. The location of the violation;

v. The date and time of the violation;

vi. A copy of the recorded image;

vii. The amount of the civil penalty imposed and the date by which the civil penalty should be paid;

viii. A signed statement by a member of the police department that, based on inspection of recorded images, the motor vehicle was being operated in violation of § 15-410; and

ix. Information advising the person alleged to be liable under this section:

(1) Of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in the city court; and

(2) Warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

b. "In operation" means operating in good working condition.

c. "Recorded images" means images recorded by a traffic control photographic system on:

i. On:

(1) A photograph;

(2) A microphotograph;

(3) An electronic image;

(4) Videotape; or

(5) Any other medium; and

ii. At least one (1) image or portion of tape, clearly identifying the registration plate number ofthe motor vehicle.

d. "System location" is the approach to an intersection toward which a photographic, video or electronic camera is directed and is in operation.

e. "Traffic control photographic system" is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control sign, signal or device and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal or device.

f. "Vehicle owner" is the person identified by the Tennessee Department of Safety as the registered owner of a vehicle.

2. General. a. The city police department or an agent of the department shall administer the traffic control photographic systems and

shall maintain a list of system locations where traffic control photographic systems are installed.

b. The city shall adopt procedures for the issuance of citations and warnings under this section. A citation or warning alleging that a violation of this section occurred, sworn to or affirmed by officials or agents of the city, based on inspection of recorded images produced by a traffic control photographic system, shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under this section. The citation or warning shall be forwarded by first-class mail to the owner's address as given on the motor vehicle registration. Personal service of process on the owner shall not be required.

c. Signs to indicate the use of traffic control photographic systems shall be clearly posted.

3. Offense. a. It shall be unlawful for a vehicle to cross the stop line at a system location per § 15-407, or for a vehicle to violate any other traffic regulation specified in chapter 15 (Motor Vehicles, Traffic and Parking) of the Selmer Municipal Code.

b. A person who receives a citation under this subsection may:

i. Pay the civil penalty, in accordance with instructions on the citation, directly to the city court; or contracted collection agent or system vendor; or

ii. Elect to contest the citation for the alleged violation.

c. The owner of a vehicle shall be responsible for a violation under this section, except when he can provide evidence that the vehicle was in the care, custody, or control of another person at the time of the violation, as described in subsection (3)(d) of this section.

d. Notwithstanding subsection (3) (c) of this section, the owner of the vehicle shall not be responsible for the violation if, on the designated court date, he furnishes the city court:

i. The name and address of the person or entity who leased, rented, or otherwise had the care, custody, and control of the vehicle at the time of the violation; or

ii. An affidavit by him stating that, at the time of the violation, the vehicle involved was stolen or was in the care, custody, or control of some person who did not have his permission to use the vehicle.

4. Penalty. a. Any violation of this section involving a vehicle crossing the stop line at a system location per § 15-407 of the Selmer Municipal Code shall be deemed a noncriminal violation for which a civil penalty of fifty dollars ($50.00) and court costs shall be assessed. Any violation of this section involving any other traffic regulation specified in title 15 (Motor Vehicles, Traffic and Parking) of the Selmer Municipal

Code shall be deemed a non-criminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed.

b. All revenues generated from penalties and assessments associated with the enforcement of this section shall first be applied to all equipment, administrative and associated processing costs. All excess revenues shall then be available for general government operating expenditures.

c. A violation for which a civil penalty is imposed under this section shall not be considered a moving violation and may not be recorded by the police department or the state department of safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage. (as added by Ord. #565, Sept. 2007, and amended by Ord. #599, Oct. 2010)

CHAPTER 5

PARKING

SECTION
15-501. Generally.
15-502. Angle parking.
15-503. Occupancy of more than one space.
15-504. Where prohibited.
15-505. Loading and unloading zones.
15-506. Presumption with respect to illegal parking.

15-501. 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 the Town of Selmer 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 within the fire limits between the hours of 1:00 a.m. and 5:00 a.m. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (Code of 1977, § 9-501)

15-502. Angle parking. On those streets which have been signed or marked by the Town of Selmer for angle parking no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (Code of 1977, § 9-502)

15-503. 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. (Code of 1977, § 9-503)

15-504. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the Town of Selmer, 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 cross walk.
6. Within fifty (50) feet of a railroad crossing.
7. Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
8. Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
9. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
10. Upon any bridge.
11. Alongside any curb painted yellow or red by the Town of Selmer.
12. In a parking space clearly identified by an official sign as being reserved for disabled drivers, unless, however, the person driving the vehicle is
    a. Disabled driver, or
    b. Parking such vehicle for the benefit of a disabled passenger.

    A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21. (Code of 1977, § 9-504, as amended by Ord. #548, Oct. 2006)

15-505. 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 Town of Selmer as a loading and unloading zone. (Code of 1977, § 9-505)

15-506. 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. (Code of 1977, § 9-506)

CHAPTER 6

ENFORCEMENT

SECTION
15-601. Issuance of traffic citations.
15-602. Failure to obey citation.
15-603. Illegal parking.
15-604. Impoundment of vehicles.
15-605. Disposal of "abandoned motor vehicles."

15-601. Issuance of traffic citations. 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 town 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. (Code of 1977, § 9-601)

15-602. 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. (Code of 1977, § 9-602)

15-603. 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.

For such parking violations the offender may waive his right to a judicial hearing and have the charges disposed of out of court but the fines shall be three dollars ($3.00) within ten (10) days and five dollars ($5.00) thereafter. (Code of 1977, § 9-603)

15-604. 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 five dollars ($5.00) and the storage cost shall be one dollar ($1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (Code of 1977, § 9-604)

15-605. Disposal of "abandoned motor vehicles." "Abandoned motor vehicles" as defined in section 55-16-103, Tennessee Code Annotated, shall be impounded and disposed of by the police department in accordance with the provisions of sections 55-16-103 through 55-16-109, Tennessee Code Annotated. (Code of 1977, § 9-605)

TITLE 16

STREETS AND SIDEWALKS, ETC.[1]

CHAPTER
1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION
16-101. Obstructing streets, alleys, or sidewalks prohibited.
16-102. Trees projecting over streets, etc., regulated.
16-103. Trees, etc., obstructing view at intersections prohibited.
16-104. Projecting signs and awnings, etc., restricted.
16-105. Banners and signs across streets and alleys restricted.
16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
16-107. Littering streets, alleys, or sidewalks prohibited.
16-108. Obstruction of drainage ditches.
16-109. Abutting occupants to keep sidewalks clean, etc.
16-110. Parades regulated.
16-111. Operation of trains at crossings regulated.
16-112. Animals and vehicles on sidewalk.
16-113. Fires in streets, etc.
16-114. Public parks, recreation centers, etc.
16-115. Solicitation roadblocks are prohibited on the streets of the Town of Selmer.

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. (Code of 1977, § 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

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[1]See title 15 in this code for related motor vehicle and traffic regulations; see title 20, chapter 1 for the establishment for the Town of Selmer, Tennessee, of a Public Works Department.

or out over any sidewalk at a height of less than eight (8) feet. (Code of 1977, § 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 driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (Code of 1977, § 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. (Code of 1977, § 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 after a finding that no hazard will be created by such banner or sign. (Code of 1977, § 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 or over any street, alley, or sidewalk except when required by statute. (Code of 1977, § 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. (Code of 1977, § 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. (Code of 1977, § 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 or ice from the abutting sidewalk. (Code of 1977, § 12-109)

16-110. Parades regulated.[1] (1) Definitions. For purposes of this section, a parade is defined as any organized public procession on a street or roadway for the purpose of celebrating an event or occurrence or for the purpose of public demonstration. A funeral procession does not constitute a parade for purposes of this section.

(2) Parade application procedure. All individuals, groups, or entities, "applicant," that propose to conduct a parade upon any street within the city limits of the Town of Selmer shall comply with the following procedures:

(a) The application shall be submitted to the chief of police no less than thirty (30) calendar days or more than sixty (60) calendar days prior to the date and time of the commencement of the parade.

(b) The police chief, fire chief and mayor will review and either approve or deny the permit. Upon their approval, the parade permit application will be submitted to the mayor and board of aldermen for final approval.

(c) It shall be a civil offense for an individual, group or entity to knowingly organize, engage in, participate in, aid or commence a parade upon any street of the town without making written application for and receiving a parade permit and complying with this section.

(d) No parade permit shall be required for the following:

(i) The armed forces of the United States of America, the military forces of the state and the forces of the police and fire departments acting within the scope of their duties.

(ii) Funeral processions proceeding by vehicle by the most reasonable route from a funeral home, church or residence of a deceased to the place of service or place of interment.

(iii) Sidewalk processions which observe and comply with traffic regulations and traffic control devices, utilizing that portion of a sidewalk nearest the street, but at no time more than one-half (½) of the sidewalk.

(e) Candy, gum, beads, paper or any other article(s) shall not be thrown from any type of vehicle during a parade. This shall include, but not be limited to, persons on horseback.

(f) Parade participants, spectators, and the public are prohibited from disembarking from or attempting to board a moving vehicle during a parade.

(3) Application requirements. (a) The application shall contain the following information and shall be signed by the applicant:

(i) The name, address and telephone number of the applicant and of any other persons, organizations, firms or corporations on whose behalf the application is made;

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[1]The parade permit application is available in the recorder's office.

(ii) Date requested for the parade and the proposed schedule of start and stop times;

(iii) The specific route (include a map) to be traveled including city, county, highway numbers, and physical location, and the starting and termination points;

(iv) A brief description of the proposed activities, including the proposed placement of event staff and equipment on the right-of-way;

(v) Staging areas for the start of the parade and disassembly areas at the termination point must be designated and fully described. Applicant must sign a statement that all staging and disassembly areas on private or public property have been approved by the owner/management of the property. The name, address and phone numbers for the owner/manager authorizing the use of property must be included in the application, including without limitation public rights-of-way and property operated by the town, if applicable;

(vi) The estimated number of persons to participate in the parade. Marching units or organizations shall require an individual count for each member. The total number of people shall be included;

(vii) The estimated number, if any, of animals without riders, animals with riders, animal-drawn vehicles, floats, motor vehicles, motorized displays.

(viii) A signed statement ensuring that each marching unit or organization will only be allowed to conduct a maximum of two (2) stationary performances at a specified and approved location during the parade route. The marching unit or organization shall then continuously march along all other portions of the parade route;

(ix) A signed statement that sponsors will ensure that assembly and disassembly of the parade will be directed and orderly so as not to block or interfere with traffic flow;

(x) A signed statement ensuring that the applicant will be responsible for the ground maintenance of the assembly and disassembly areas that occur in public rights-of-way including with out limitation cleaning and removal of animal droppings.

(xi) A signed statement ensuring that the Applicant understands the following:

(A) Horse units. Horse units may be permitted under the following conditions:

(1) All horses must be under control at all times.

(2) Riders may not consume intoxicating beverages immediately before or during the parade.

(3) There must be an individual unit following horse formation to clean up the debris from the horses on the parade route.

(4) Each horse must be identified by a responsible person.

(B) Motorized units. All motorized units shall not exceed ten (10) miles per hour while on the parade route. No motorized units shall be driven in a reckless manner. All units shall use only one (1) lane of the street and shall not cross from lane to lane. The police and fire chief may establish other conditions as deemed appropriate.

(C) Parade floats. Any float either pulled or self-propelled will be approved by the fire chief one (1) hour prior to the start of parade.

(D) Intoxicating beverages. There shall be no open display or consumption of intoxicating beverages on or in floats or units. No person operating a motor vehicle within the parade shall consume intoxicating beverages during the parade or at any time two (2) hours prior of the parade, or be under the influence of alcohol or a controlled substance at any time during the parade.

(E) Obscene and vulgar displays. No floats or units shall include any vulgar or obscene act, shall contain vulgar, obscene, or offensive language, contain anything defamatory or otherwise offensive to the general members of the community. No person shall use vulgar, obscene or derogatory language while on a float or unit.

(F) Issuance of parade permit. Upon receipt of the parade application, the chief of police shall normally furnish to the applicant, within fifteen (15) working days, excluding Saturdays, Sundays and legal holidays, appropriate approval or denial of the application. Approval or denial of the application may be delayed if the applicant fails to give complete information, if the proposed route requires staff research, or if other aspects of the application require staff review that exceeds the normal process.

In the event the application reveals that the parade staging, parade route and parade disassembly requested will interfere with the orderly flow of vehicular or pedestrian traffic, the police chief, fire chief and mayor shall have authority to establish a reasonable alternate route and to regulate the width and the duration of the parade.

(G) Denial of parade permit. The police chief, fire chief and mayor shall deny an application (permit) when:

(1) The Applicant fails to provide complete information on the application required under this section.

(2) The movement of the parade will conflict in time and location with another parade for which a permit has previously been granted.

(3) The parade could damage roadways or other facilities of the town.

(4) The applicant refuses to sign a statement ensuring that each marching unit or organization will only be allowed to conduct a maximum of two (2) stationary performances at a specified and approved location during the parade route.

(5) The applicant refuses to sign a statement ensuring that appropriate property owner/managers have authorized their property for use as staging and disassembly areas.

(6) The applicant refuses to sign a statement ensuring that the parade assembly and disassembly will be directed and orderly so as not to block or interfere with traffic flow.

(H) Revocation of permit. (1) The police chief shall revoke a parade permit when the information contained in the application is found to be inaccurate in any material detail.

(2) The police chief may revoke the parade permit if the parade fails to begin within thirty (30) minutes of the appointed time of commencement.

(3) The police chief may revoke the parade permit if the applicant misrepresents the number of participants in the parade and/or does not provide a final parade participation count at least seven (7) days before the date of the parade.

(4) The police chief shall revoke a parade permit based on reasonable grounds to believe that the parade is being conducted in a manner constituting a danger to any person or property.

(5) The police chief shall revoke a parade permit for failure to comply with this section.

(I) Indemnification. An applicant and or the sponsors, and or any other individual or entity reasonable

required by the town must execute a written indemnity agreement, in the form and substance required by the town, indemnifying and holding harmless, the town and its officers and employees and parties in interest with the town against all claims, damages, or causes of action arising from the parade resulting in injury, damage or death to persons or property, whether public or private. The applicant shall take all reasonable measures necessary to protect the parade participants. Insurance shall be furnished prior to the parade in the form, substance, and limits required by the town. (Code of 1977, § 12-110, as replaced by Ord. #567, Oct. 2007, and amended by Ord. #579, Aug. 2008)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law, nor shall he make such crossing at a speed in excess of forty (40) miles per hour. 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 seven (7) consecutive minutes. Be it further ordained that the town shall require crossing gates at all intersections of the railroad and public streets. (Code of 1977, § 12-111, as amended by ord. #414, Sept. 1992)

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 unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (Code of 1977, § 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. (Code of 1977, § 12-113)

16-114. Public parks, recreation centers, etc. (1) All persons using or occupying any public park or other recreational facility shall be governed by the following provisions:

(2) All fires shall be carefully extinguished by any person igniting such fire before such person leaves the area.

(a) All debris, paper, bottles, containers, etc., shall be placed in refuse containers by any person who has discarded such material.

(b) No person in any park or recreation area shall wear a swimming or bathing suit except in a swimming pool or such area as has been provided for bathers.

(c) No person shall change from street clothes to swimming or bathing suits or from swimming or bathing suits to street clothes except in areas provided for such changes.

(d) All parties or groups of persons desiring the use of park facilities shall first obtain a permit from the chief of police.

(e) Food served at picnics, luncheons, etc., shall be consumed only in areas officially designated for such purposes.

(f) In those areas designated for picnics, no person or group shall have priority over any other person or group and no person or group shall occupy such area for an unreasonable length of time.

(3) It shall be unlawful for any person who uses or occupies any public park or recreation center to commit the following offenses while in such park:

(a) To pollute or contaminate any swimming pool, stream, pond or water fountain within such park or recreation center,

(b) To fail to deposit his or her refuse, garbage, etc., in containers designated for that purpose.

(c) To fly any model airplane within a public park or recreation center.

(d) To drive or park any motor vehicle within any public park or recreation center.

(e) To bring any dangerous animal into any public park or recreation center or bring any dog that is not on a leash which is not more than six (6) feet in length.

(f) To sell, peddle or solicit sales of any article within any park or recreation area.

(g) To eat, drink or smoke at any public swimming pool in any park or recreation center.

(h) To possess, use or consume any alcoholic beverage, controlled substance or legend drug within any public park or recreation area. (Code of 1977, § 12-114)

16-115. Solicitation roadblocks are prohibited on the streets of the Town of Selmer. The following terms shall apply in the interpretation and application of this chapter:

(1) "Solicitation roadblock" shall mean the solicitation by any person of money on or in the right of way of any street, road, highway, or any other public way and place generally open to and used by the public for travel in or upon motor vehicles.

(2) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right-of-way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic.

(3) A violation of this ordinance may result in a citation to municipal court and a fine of up to fifty dollars ($50.00). (as added by Ord. #645, Jan. 2015 ***Ch8_06-29-23***)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required.
16-202. Application.
16-203. Fee.
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.
16-211. Notification of utility department.

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 of office of the recorder is open for business and said permit shall be retroactive to the date when the work was begun. (Code of 1977, § 12-201)

16-202. Application. 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

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[1]Sections 16-201 through 16-209 in this chapter were taken substantially from the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 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. (Code of 1977, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars ($2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents ($0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars ($100.00) for any permit. (Code of 1977, § 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. (Code of 1977, § 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 temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (Code of 1977, § 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 by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the

street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the 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 municipality, 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. (Code of 1977, § 12-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than $100,000 for each person and $300,000 for each accident, and for property damages not less than $25,000 for any one (1) accident, and a $75,000 aggregate. (Code of 1977, § 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 the 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 by the recorder. (Code of 1977, § 12-208)

16-209. Supervision. The recorder shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the municipality and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (Code of 1977, § 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 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. (Code of 1977, § 12-210)

16-211. Notification of utility department. In addition to the other requirements of this chapter, all persons, firms, corporations, associations, or others engaged in excavation, trenching, drilling, or digging operations shall notify the Selmer Utility Department prior to conducting operations of this nature within the corporate limits. (Code of 1977, § 12-211)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER
1. REFUSE.

CHAPTER 1

REFUSE

SECTION
17-101. Refuse defined.
17-102. Premises to be kept clean.
17-103. Storage.
17-104. Location of containers.
17-105. Disturbance and unauthorized use of containers.
17-106. Collection and fee.
17-107. Collection vehicles.
17-108. Disposal.
17-109. Town sole collector.
17-110. Authorized agent specified.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (Code of 1977, § 8-201)

17-102. Premises to be kept clean. All persons within the municipality are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (Code of 1977, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this municipality where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons. The

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[1]See title 20, chapter 1 for the establishment for the Town of Selmer, Tennessee, of a Public Works Department.

combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (Code of 1977, § 8-203)

17-104. Location of containers. Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the municipality for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (Code of 1977, § 8-204)

17-105. Disturbance and unauthorized use of containers. 1. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb any refuse container belonging or leased to another. All refuse containers in use on the premises of any commercial establishment shall be used solely and only by that establishment as a receptacle for its commercial refuse. No person shall use a commercial establishment's refuse container unless specifically authorized by the commercial establishment.

If an object of refuse is discovered on another's property without his permission, on any public highway, street or road, upon public parks or recreation areas, or upon any other public property except that property designated for such use, bearing a person's name, it shall be prima facie evidence that the person whose name appears on the object threw, dumped or deposited it there.

A person who violates a provision of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed the maximum amount permissible by law. However, the judge in his discretion may require an individual convicted of a violation of this section to remove refuse from public property within the city, or other appropriate locations, for any prescribed period in lieu of or in addition to the penalty as provided in this section.

2. Containers: With respect to publicly maintained refuse containers, such containers shall be of welded steel construction suitable for the storage of refuse, and shall be equipped with slots or other devices capable of being engaged by the arms of a front loading refuse truck designed for that purpose. Commercial refuse containers shall have a maximum capacity of eight cubic

yards. The property owner, lessee, or the user of the container shall contact the party in charge of refuse collection for the Town of Selmer and make arrangements to have the collection from the container set up on a schedule so that the refuse does not accumulate or overflow the confines of the container or restrict the closing of the container cover. The party designated by the Town of Selmer to be in charge of garbage and refuse collection shall approve the design, location, capacity and number of commercial refuse containers in use at each site. (Code of 1977, § 8-205, as replaced by Ord. #450, Dec. 1996)

17-106. Collection and fee. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule.

A garbage fee shall be established by resolution passed from time to time by the board of mayor and aldermen to cover the cost of garbage service to each resident so served.[1]

This garbage fee shall be mandatory for all residents and businesses inside the city limits. (Code of 1977, § 8-206, as amended by Ord. #450, Dec. 1996, as replaced by Ord. #558, June 2007)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (Code of 1977, § 8-207)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (Code of 1977, § 8-208)

17-109. Town sole collector. The Town of Selmer shall be the sole collector of garbage, rubbish, and/or refuse within the corporate limits of the Town of Selmer, Tennessee. (as added by Ord. #492, May 2002)

17-110. Authorized agent specified. The Town of Selmer, Tennessee may designate by contract or franchise an authorized agent consisting of non-city personnel for collection and disposal of garbage, rubbish, and refuse for all or certain specified classes of customers as designated in such contract or franchise. (as added by Ord. #492, May 2002)

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[1]Administrative ordinances are of record in the town recorder's office.

TITLE 18

WATER AND SEWERS[1]

CHAPTER

1. WATER AND SEWER SERVICE.
2. SEWER USE REGULATIONS.
3. SEWAGE DISPOSAL.
4. INDUSTRIAL PRETREATMENT.
5. CROSS CONNECTIONS AUXILIARY INTAKES, ETC.
6. WATER ADDITIVE ACCOUNTABILITY ORDINANCE.

CHAPTER 1

WATER AND SEWER SERVICE

SECTION

18-101. Application and scope.
18-102. Definitions.
18-103. Obtaining service.
18-104. Application and contract for service.
18-105. Service charges for temporary service.
18-106. Connection charges.
18-107. Fluoridation of water supply.
18-108. Water and sewer main extensions.
18-109. Variances from and effect of preceding section as to extensions.
18-110. Meters.
18-111. Meter tests.
18-112. Schedule of rates.
18-113. Multiple services through a single meter.
18-114. Billing.
18-115. Discontinuance or refusal of service.
18-116. Re-connection charge.
18-117. Termination of service by customer.
18-118. Access to customers' premises.
18-119. Inspections.
18-120. Customer's responsibility for system's property.
18-121. Customer's responsibility for violations.
18-122. Supply and resale of water.
18-123. Unauthorized use or interference with water supply.

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[1]See title 12 in this code for the building and utility codes; see title 8 for provisions relating to cross-connections, etc.; see title 2 for provisions relating to the Selmer Utility Board; see title 20, chapter 1 for the establishment for the Town of Selmer, Tennessee, of a Public Works Department.

18-124. Limited use of unmetered private fire line.
18-125. Damages to property due to water pressure.
18-126. Liability for cutoff failures.
18-127. Restricted use of water.
18-128. Interruption of service.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the Town of Selmer and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (Code of 1977, § 13-101)

18-102. Definitions. 1. "Customer" means any person, firm, or corporation who receives water and/or sewer service from the Town of Selmer under either an express or implied contract.

2. "Household" means any two (2) or more persons living together as a family group.

3. "Service line" shall consist of the pipe line extending from any water or sewer main of the Town of Selmer to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the Town of Selmer's water main to and including the meter and meter box.

4. "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

5. "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

6. "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (Code of 1977, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the Town of Selmer before connection or meter installation orders will be issued and work performed. (Code of 1977, § 13-103)

18-104. Application and contract 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. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the Town of Selmer for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the Town of Selmer to render the service applied for. If the service applied for cannot be

supplied in accordance with the provisions of this chapter and general practice, the liability of the Town of Selmer to the applicant shall be limited to the return of any deposit made by such applicant. (Code of 1977, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (Code of 1977, § 13-105)

18-106. Connection charges. Service lines will be laid by the Town of Selmer from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the town.

Before a new water or service line will be laid by the Town of Selmer, the applicant shall make a deposit equal to the estimated cost of the installation.

This deposit shall be used to pay the cost of laying such new service line and appurtenant equipment. If such cost exceeds the amount of the deposit, the applicant shall pay to the Town of Selmer the amount of such excess cost when billed therefor. If such cost is less than the amount of the deposit, the amount by which the deposit exceeds such cost shall be refunded to the applicant.

When a service line is completed, the Town of Selmer shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer. (Code of 1977, § 13-106)

18-107. Fluoridation of water supply. The water utility district of Selmer is authorized and instructed to make plans for the fluoridation of the water supply of the town, and to submit plans to the Department of Public Health of the State of Tennessee for approval. When such plans are approved by the department, the water utility district will add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of the town water supply. All costs of such fluoridation will be borne by the revenues of the water department of the town. (Code of 1977, § 13-107)

18-108. Water and sewer main extensions. Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

For water main extensions cement-lined cast iron pipe, class 150 American Water Works Association Standard (or other construction approved by the board of mayor and aldermen), not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther

than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe (or other construction approved by the board of mayor and aldermen) two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions eight-inch pipe of vitrified clay or other construction approved by the board of mayor and aldermen shall be used.

All such extensions shall be installed either by municipal forces or by other forces working directly under the supervision of the Town of Selmer in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the Town of Selmer, such water and/or sewer mains shall become the property of the Town of Selmer. The persons paying the cost of constructing such mains shall execute any written instruments requested by the Town of Selmer to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the Town of Selmer shall incorporate said mains as an integral part of the town water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (Code of 1977, § 13-108)

18-109. Variances from and effect of preceding section as to extensions. Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the Town of Selmer and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the Town of Selmer to make such extensions or to furnish service to any person or persons. (Code of 1977, § 13-109)

18-110. Meters. All meters shall be installed, tested, repaired, and removed only by the Town of Selmer.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (Code of 1977, § 13-110)

18-111. Meter tests. The Town of Selmer will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	Percentage
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The Town of Selmer will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

Meter Size	Test Charge
5/8", 3/4", 1"	$ 2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the Town of Selmer. (Code of 1977, § 13-111)

18-112. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the Town of Selmer may from time to time adopt by resolution.[1] (Code of 1977, § 13-112, as amended by Ord. #560, June 2007)

18-113. Multiple services through a single meter. No customer shall supply water or sewer service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the Town of Selmer.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered

[1]Administrative ordinances are of record in the recorder's office.

service the amount of water so allocated to it, such computation to be made at the town's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (Code of 1977, § 13-113)

18-114. Billing. Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the Town of Selmer.

Both charges shall be collected as a unit; no employee of the Town of Selmer shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date. The Town of Selmer shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued. Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the Town of Selmer if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available. (Code of 1977, § 13-114)

18-115. Discontinuance or refusal of service. The Town of Selmer shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

1. These rules and regulations.
2. The customer's application for service.
3. The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the Town of Selmer for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (Code of 1977, § 13-115)

18-116. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of ten dollars ($10.00) shall be collected by the town before service is restored. (Code of 1977, § 13-116)

18-117. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the Town of Selmer reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

1. Written notice of the customer's desire for such service to be discontinued may be required; and the Town of Selmer shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the Town of Selmer should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

2. During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (Code of 1977, § 13-117)

18-118. Access to customers' premises. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing,

inspecting, repairing, removing, and replacing all equipment belonging to the Town of Selmer, and for inspecting customer's plumbing and premises generally in order to secure compliance with these rules and regulations. (Code of 1977, § 13-118)

18-119. Inspections. The Town of Selmer shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The Town of Selmer reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the Town of Selmer liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (Code of 1977, § 13-119)

18-120. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the Town of Selmer shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the Town of Selmer on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (Code of 1977, § 13-120)

18-121. Customer's responsibility for violations. Where the Town of Selmer furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (Code of 1977, § 13-121)

18-122. Supply and resale of water. All water shall be supplied within the Town of Selmer exclusively by the town and no customer shall directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the Town of Selmer. (Code of 1977, § 13-122)

18-123. Unauthorized use or interference with water supply. No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the Town of Selmer. (Code of 1977, § 13-123)

18-124. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the Town of Selmer.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the Town of Selmer a written notice of such occurrence. (Code of 1977, § 13-124)

18-125. Damages to property due to water pressure. The Town of Selmer shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. (Code of 1977, § 13-125)

18-126. Liability for cutoff failures. The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

1. After receipt of at least ten (10) days' written notice to cut off a water service, the Town of Selmer has failed to cut off such service.
2. The town has attempted to cut off a service but such service has not been completely cut off.
3. The town has completely cut off service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the town's main.

Except to the extent stated above, the Town of Selmer shall not be liable for any loss or damage resulting from cutoff failures. If a customer wished to avoid possible damage for cutoff failure, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the Town of Selmer) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (Code of 1977, § 13-126)

18-127. Restricted use of water. In times of emergencies or in times of water shortage, the Town of Selmer reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (Code of 1977, § 13-127)

18-128. Interruption of service. The Town of Selmer will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the Town of Selmer water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (Code of 1977, § 13-128)

CHAPTER 2

SEWER USE REGULATIONS

SECTION

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18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the Town of Selmer, Tennessee wastewater treatment system. The objectives of this chapter are:

1. To protect the public health;
2. To provide problem free wastewater collection and treatment service;
3. To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, will cause the town's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements will cause physical damage to the wastewater treatment system facilities;
4. To provide for full and equitable distribution of the cost of the wastewater treatment system;
5. To enable the Town of Selmer to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal and state laws and regulations;
6. To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the Town of Selmer must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the Town of Selmer, Tennessee, and to persons outside the town who are, by contract or agreement with the town users of the municipal wastewater treatment system. Except as otherwise provided herein, the Water and Sewer Superintendent of the Town of Selmer shall administer, implement, and enforce the provisions of this chapter. (Ord. # 334)

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

1. "Act or the Act" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et. seq.

2. "Approval Authority" - The Director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

3. "Authorized Representative of Industrial User" - An authorized representative of an industrial user may be: (1) a principal executive officer of at least the level of vice-president, if the industrial user is a corporation; (2) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; (3) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

4. "Biochemical Oxygen Demand (BOD)" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

5. "Building Sewer" - A sewer conveying wastewater from the premises of a user to the POTW.

6. "Categorical Standards" - National Categorical Pretreatment Standards or Pretreatment Standard.

7. "Compatible Pollutant" - shall mean BOD, suspended solids, Ph, and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in this town's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

8. "Cooling Water" - The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

9. "Control Authority" - The term "control authority" shall refer to the "Approval Authority" defined hereinabove; or the superintendent if the town has an approved Pretreatment Program under the provisions of 40 CFR, 403.11.

10. "Customer" - means any individual, partnership, corporation, association, or group who receives sewer service from the town under either an express or implied contract requiring payment to the town for such service.

11. "Direct Discharge" - The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

12. "Domestic Wastewater" - Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only.

13. "Environmental Protection Agency, or EPA" - The U. S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

14. "Garbage" - shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

15. "Grab Sample" - A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

16. "Holding Tank Waste" - Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

17. "Incompatible Pollutant" - shall mean any pollutant which is not a "compatible pollutant" as defined in this section.

18. "Indirect Discharge" - The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

19. "Industrial User" - A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act (33 U.S.C. 1342).

20. "Interference" - The inhibition or disruption of the municipal wastewater treatment processes or operations which contributes to a violation of any requirement of the town's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

21. "National Categorical Pretreatment Standard or Pretreatment Standard" - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

22. "NPDES (Natural Pollutant Discharge Elimination System)" - shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Federal Water Pollution Control Act as amended.

23. "New Source" - Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) Categorical Pretreatment Standard which will be applicable to

such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

24. "Person" - Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

25. "pH" - The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

26. "Pollution" - The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

27. "Pollutant" - Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical substances, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

28. "Pretreatment or Treatment" - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alternation can be obtained by physical, chemical, or biological processes, or process changes other means, except as prohibited by 40 CFR Section 40.36(d).

29. "Pretreatment Requirements" - Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

30. "Publicly Owned Treatment Works (POTW)" - A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the (city) who are, by contract or agreement with the (city) users of the (city's) POTW.

31. "POTW Treatment Plant" - That portion of the POTW designed to provide treatment to wastewater.

32. "Shall" is mandatory; "May" is permissive.

33. "Slug" - shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer

to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

34. "State" - State of Tennessee.

35. "Standard Industrial Classification (SIC)" - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

36. "Storm Water" - Any flow occurring during or following any form of natural precipitation and resulting therefrom.

37. "Storm Sewer or Storm Drain" - shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

38. "Suspended Solids" - The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

39. "Superintendent" - The person designated by the town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

40. "Town" - The Town of Selmer or the Board of Mayor and Aldermen, Town of Selmer Tennessee.

41. "Toxic Pollutant" - Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA (307(a)) or other Acts.

42. "Twenty-Four (24) Hour Flow Proportional Composite Sample" - A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

43. "User" - Any person who contributes, causes or permits the contribution of wastewater into the town's POTW.

44. "Wastewater" - The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

45. "Wastewater Treatment Systems" - Defined the same as POTW.

46. "Waters of the State" - All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof. (Ord. # 334, modified)

18-203. Requirements for proper wastewater disposal. 1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the Town of Selmer, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any waters of the state within the service area of the Town of Selmer any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4. Except as provided in section 18-203(5) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer in the service area, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the building drain as defined herein.

5. The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

6. Where a public sanitary sewer is not available under the provisions of section 18-203(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of section 18-208 of this chapter. (Ord. # 334)

18-204. Physical connection public sewer. 1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent as required by section 18-210 of this chapter.

2. 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 town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

3. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer

from the front building may be extended to the rear building and the whole considered as one building sewer.

4. Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others must be sealed to the specifications of the superintendent.

5. Building sewers shall conform to the following requirements:

a. The minimum size of a building sewer shall be four (4) inches.

b. The minimum depth of a building sewer shall be eighteen (18) inches.

c. Four (4) inch building sewers shall be laid on a grade greater than 1/8-inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

d. Slope and alignment of all building sewers shall be neat and regular.

e. Building sewers shall be constructed only of (1) concrete or clay sewer pipe using rubber or neoprene compression joints of approved type; (2) cast iron soil pipe with leaded or compression joints; (3) polyvinyl chloride pipe with solvent welded or with rubber compression joints; (4) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or (5) such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be acceptable.

f. A cleanout shall be located five (5) feet outside of the building, one as it taps on to the utility lateral and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of four (4) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches on a four (4) inch pipe.

g. Connections of building sewers to the public sewer system shall be made the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the superintendent. All such connections shall be made gastight and watertight.

h. The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

i. The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

j. An installed building sewer shall be gastight and watertight.

6. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

7. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (Ord. # 334)

18-205. Inspection of connections. 1. The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered by the superintendent or his authorized representative.

2. The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative. (Ord. # 334)

18-206. Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the superintendent to meet specifications of the town. (Ord. # 334)

18-207. Private domestic wastewater disposal. 1. Where a public sanitary sewer is not available under the provisions of section 18-203(4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

2. Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in Section 18-203, the owner shall provide a private sewage pumping station as provided in Section 18-204.

3. Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice to do so. (Ord. # 334)

18-208. Construction requirements. 1. A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Superintendent and McNairy County Health Department.

2. Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the Superintendent and McNairy County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Superintendent and McNairy County Health Department.

3. A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Superintendent and McNairy 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 Superintendent and McNairy 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 Superintendent and McNairy County Health Department.

4. The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Tennessee and the Superintendent and McNairy County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

6. No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Superintendent and McNairy County Health Department. (Ord. # 334)

18-209. Regulation of holding tank waste disposal. 1. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the superintendent to perform such acts or services. Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

2. For each permit issued under the provisions of this chapter, an annual service charge therefore shall be paid to the town to be set as specified in section 18-235. Any such permit granted shall be for one full fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted on each side of each motor vehicle used in the conduct of the business permitted hereunder.

3. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated.

4. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the Town of Selmer. (Ord. # 334)

18-210. Applications for domestic wastewater discharge and industrial wastewater discharge permits. 1. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the municipal sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with section 18-203 of this chapter and an inspection has been performed by the superintendent or his representative.

2. The receipt by the town of a prospective customer's application for service shall not obligate the town to render the service. If the service applied for cannot be supplied in accordance with this chapter and the town's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service, except that conditional waivers for additional services may be granted by the superintendent for interim periods if compliance may be assured within a reasonable period of time. (Ord. # 334)

18-211. Industrial wastewater discharge permits. 1. General requirements. All industrial users proposing to connect to or to contribute to the POTW shall obtain a Wastewater Discharge Permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW within 180 days after the effective date of this chapter.

2. Applications. Applications for Wastewater Discharge Permits shall be required as follows:

a. Users required to obtain a Wastewater Discharge Permit shall complete and file with the superintendent application in the form prescribed by the superintendent and accompanied by the appropriate fee. Existing users shall apply for a Wastewater Contribution Permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW.

b. The application shall be in the prescribed form of the town and shall include, but not be limited to the following information: name, address and SIC number of applicant; wastewater volume; wastewater constituents and characteristics; discharge variations - daily, monthly, seasonal and 30 minute peaks; a description of all toxic materials handled on the premises; site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or

equalization facilities and any other information deemed necessary by the superintendent.

c. Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the superintendent for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A Wastewater Discharge Permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter.

d. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. For the purpose of this paragraph, "Pretreatment Standard," shall include either a National Pretreatment Standard or a pretreatment standard imposed by Section 18-218 of this chapter.

e. The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

f. The receipt by the town of a prospective customer's application for Wastewater Discharge Permit shall not obligate the town to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the town's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the town to the applicant of such service.

g. The superintendent will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the superintendent that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the superintendent, the superintendent shall submit the application to the mayor with a recommendation that it be denied and notify the applicant in writing of such action. (Ord. # 334)

18-212. Permit conditions. Wastewater Discharge Permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees establishing by the town. Permits may contain the following:

1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
2. Limits on the average and maximum wastewater constituents and characteristics;
3. Limits on average and maximum rate and time of discharge or requirements and equalization;
4. Requirements for installation and maintenance of inspections and sampling facilities;
5. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
6. Compliance schedules;
7. Requirements for submission of technical reports of discharge reports;
8. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording town access thereto;
9. Requirements for notification of the town of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
10. Requirements for notification of slug discharged;
11. Other conditions as deemed appropriate by the town to ensure compliance with this chapter. (Ord. # 334)

18-213. Permit modifications. Within nine months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Discharge Permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing Wastewater Discharge Permit shall submit to the superintendent within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by 18-211(2)(b) and 18-211(2)(c). The terms and conditions of the permit may be subject to modification by the superintendent during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. (Ord. # 334)

18-214. Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. (Ord. # 334)

18-215. Permit transfer. Wastewater Discharge Permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (Ord. # 334)

18-216. Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

1. Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.
2. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.
3. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
4. Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics. (Ord. # 334)

18-217. Confidential information. All information and data on a user obtained from reports, questionnaire permit application, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the superintendent that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the town's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the superintendent as confidential shall not be transmitted to any governmental agency or to the general public by the

superintendent until and unless prior and adequate notification is given to the user. (Ord. # 334)

18-218. Regulations. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state, or local Pretreatment Standards or Requirements. A user may not contribute the following substances to any POTW:

1. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

2. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

3. Any wastewater having a pH less than 5.0 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

4. Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

5. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public

nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

6. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

7. Any substance which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.

8. Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

9. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104°F).

10. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

11. Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "sludge" as defined herein.

12. Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

13. Any wastewater which causes a hazard to human life or creates a public nuisance.

14. Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty (150) degrees F (0 and 65°C).

15. Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Public Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Public Health, to a storm sewer or natural outlet. (Ord. # 334)

18-219. Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the following set of standards (Table A - User Discharge Restrictions) unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - User Discharge Restrictions

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5
Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides & Herbicides	0.5	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants, as MBAS	25.0	50.0
Zinc	3.0	5.0

*Based on 24-hour flow proportional composite samples. (Ord. # 334)

18-220. Protection of treatment plant influent. The superintendent shall monitor the treatment works influent for each parameter in the following table. (Table B - Plant Protection Criteria) Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set for in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the superintendent shall initiated technical studies to determine the cause of the influent violation and shall recommend to the town the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The superintendent shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are

changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Table B - Plant Protection Criteria

Parameter	Maximum Concentration mg/l (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/l) Grab Sample
Aluminum dissolved (AL)	3.00	6.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.06	0.12
Barium (Ba)	2.50	5.0
Boron (B)	0.4	0.8
Cadmium (Cd)	0.004	0.008
Chromium Hex	0.06	0.12
Cobalt	0.03	0.06
Copper (Cu)	0.16	0.32
Cyanide (CN)	0.03	0.06
Fluoride (F)	0.6	1.2
Iron (Fe)	3.0	6.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.1	0.2
Mercury (Hg)	0.025	0.05
Nickel (Ni)	0.15	0.30
Pesticides & Herbicides	.001	.002
Phenols	1.00	2.0
Selenium (Se)	0.01	0.02
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Zinc (Zn)	0.3	0.6
Total Kjeldahl Nitrogen (TKN)	45.00	90.00
Oil & Grease	50.00	100.00
MBAS	5.00	10.0
BOD	*	
COD	*	
Suspended Solids	*	

*Not to exceed the design capacity of treatment works.
BDL = Below Detectable Limits (Ord. # 334)

18-221. Federal categorical pretreatment standards. Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under the chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12. (Ord. # 334)

18-222. Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the superintendent from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Public Health and/or the United State Environmental Protection Agency. (Ord. # 334)

18-223. Special agreements. Nothing in this section shall be construed so as to prevent any special agreement or arrangement between the town and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the town and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit. No special agreement or arrangement may be made without documentation by the industry of the use of good management practice in the reduction of wastewater volume and strength. (Ord. # 334)

18-224. Exceptions to discharge criteria. 1. Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in sections 18-218 and 18-219 of this chapter. Exceptions can be granted according to the following guidelines.

The superintendent shall allow applications for temporary exceptions at any time. However, the superintendent shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the town.

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 town in its review of the application.

2. Conditions. All exceptions granted under this paragraph shall be temporary and subject to revocation at any time by the superintendent upon reasonable notice.

The user requesting the exception must demonstrate to the superintendent that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if excepted, will not:

a. interfere with the normal collection and operation of the wastewater treatment system.

b. limit the sludge management alternatives available and increase the cost of providing adequate sludge management.

c. pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its inforce federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

3. Review of application 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 thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty (30) day period may be extended by the town upon application and for just cause shown. Upon receipt of a complete application, the superintendent shall evaluate same within thirty (30) days and shall submit his recommendations to the town at ifs next regularly scheduled meeting.

4. Review of application by the town. The town shall review and evaluate all applications for exceptions and shall take into account the following factors:

a. whether or not the applicant is subject to a National Pretreatment Standard containing discharge limitations more stringent than those in this chapter and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

b. whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of Section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

c. whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works;

d. the cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive costs alone shall not be the basis for granting an exception;

e. the age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

f. the process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge;

g. 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. (Ord. # 334)

18-225. Accidental discharges. 1. Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from inplant 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 waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the users expense. Detailed plans showing the facilities and operating procedures shall be submitted to the superintendent before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

2. Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the superintendent (or his designated official) by telephone to enable countermeasures to be taken by the superintendent to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any expense loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state of federal law.

3. Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. # 334)

18-226. Industrial user monitoring, inspection reports, records access, and safety. 1. Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users having wastes which receive pre-treatment, are otherwise altered or regulated before discharge, or are unusually strong and thereby subject to a surcharge. Monitoring facility shall be a manhole or other suitable facility approved by the superintendent.

When, in the judgement of the superintendent, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the superintendent may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the superintendent, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The superintendent may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the superintendent's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the superintendent, an existing notified in writing. Construction must be completed within 180 days following written notification unless an extension is granted by the superintendent.

2. Inspection and sampling. The town shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility. The superintendent or his representatives shall have no authority to inquire into any manufacturing process beyond that point having a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment.

3. Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

4. Periodic compliance reports. a. Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and

concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

b. The superintendent may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

c. The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the Wastewater Discharge Permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the Administrator pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the superintendent. Sampling shall be performed in accordance with the techniques approved by the superintendent.

5. Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this Section. Such records shall include for all samples:

a. The date, exact place, method, and time of sampling and the names of the persons taking the samples;

b. The dates analyses were performed;

c. Who performed the analyses;

d. The analytical techniques/methods used; and

e. The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the superintendent, Director of the Division of Water Quality Control Tennessee Department of Public Health, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the superintendent, the approval authority, or the Environmental Protection Agency.

6. Safety. While performing the necessary work on private properties, the superintendent or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town employees and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (Ord. # 334)

18-227. Enforcement and abatement. 1. When the superintendent finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a Wastewater Discharge Permit, the superintendent shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

a. Comply forthwith;

b. Comply in accordance with a time schedule set forth by the superintendent;

c. Take appropriate remedial or preventive action in the event of a threatened violation; or

d. Surrender his applicable user's permit if ordered to do so after a show cause hearing.

Failure of the superintendent to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

2. When the superintendent finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a Wastewater Discharge Permit, the superintendent shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the superintendent within 30 days of the issuance of the cease and desist order. (Ord. # 334)

18-228. Show cause hearing. 1. The town may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of mayor and aldermen why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the board of mayor and aldermen regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board of mayor and aldermen why the proposed enforcement action should not be taken.

The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

2. The board of mayor and aldermen may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the Water & Sewer Department to:

a. Issue in the name of the board of mayor and aldermen notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

b. Take the evidence;

c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board for action thereon.

3. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

4. After the board of mayor and aldermen has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. (Ord. # 334)

18-229. Legal action. If any person discharges sewage, industrial wastes, or other wastes into the town's wastewater disposal system contrary to the provisions of this chapter, Federal or State Pretreatment Requirements, or any order of the town, the town attorney may commence an action for appropriate legal and/or equitable relief in the chancery court of this county. (Ord. # 334)

18-230. Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the superintendent presents or may present an imminent and substantial endangerment to the health or welfare of persons, or cause interference with POTW, the superintendent or in his absence the person then in charge of the treatment works shall immediately notify the mayor of the nature of the emergency. The superintendent shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same. Following consultation with the aforementioned officials of the town or in their absence such elected officials of the town as may be available, the superintendent shall temporarily terminate the service of such user or users as are necessary to abate the condition when such action appears reasonably

necessary. Such service shall be restored by the superintendent as soon as the emergency situation has been abated or corrected. (Ord. # 334)

18-231. Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the superintendent as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent. Any person creating a public nuisance shall be subject to the provisions of the town codes or ordinances governing such nuisance. (Ord. # 334)

18-232. Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the superintendent shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating the chapter or the owner or tenant of the property upon which the violation occurred, and the town shall have such remedies for the collection of such costs as it has for the collection of sewer service charges. (Ord. # 334)

18-233. Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the superintendent shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge. (Ord. # 334)

18-234. Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The Town of Selmer shall sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the correcting action, if any. (Ord. # 334)

18-235. Civil penalties. Any user who is found to have violated an order of the board of mayor and aldermen or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined not less than fifty and 00/100 dollars ($50.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the town may recover reasonable attorney's fees, court costs,

court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder. (Ord. # 334)

18-236. Falsifying information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction be punished by a fine of not more than $1,000 or by imprisonment for not more than six (6) months, or by both. (Ord. # 334)

18-237. Fees and billing. 1. Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from user's of the town's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

2. Types of charges and fees. The charges and fees as established in the town's schedule of charges and fees, may include, but not be limited to:

a. Inspection fee and tapping fee;
b. Fees for applications for discharge;
c. Sewer use charges;
d. Surcharge fees;
e. Industrial wastewater discharge permit fees;
f. Fees for industrial discharge monitoring; and
g. Other fees as the town may deem necessary to carry out the requirements of this chapter.

3. Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by section 18-210 of this chapter.

4. Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the Town's Sewer Department at the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The inspection fee and tapping fee shall be set by the board of mayor and aldermen. (Ord. # 334)

18-238. Sewer use charges. Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the users contribution of wastewater loads; each class user being identified as follows:

1. Class I: Those users whose average biochemical oxygen demand is two hundred fifty milligrams per liter (250 mg/l) by weight or less and whose

suspended solids discharge is two hundred fifty milligrams per liter (250 mg/l) by weight or less.

2. Class II: Those users whose average biochemical oxygen demand exceeds two hundred fifty milligrams per liter concentration (250 mg/l) by weight and whose suspended solids exceeds two hundred fifty milligrams per liter concentration (250 mg/l). (Ord. # 334)

18-239. Determination of costs. The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; and debt service costs.

1. All users who fall under Class I shall pay a single unit charge expressed as dollars per 1,000 gallons of water purchased ($/1,000 gallons) with the unit charge being determined in accordance with the following formula:

$$C_i - \frac{T.S.C.}{V_t}$$

Where;

C_i = the Class I total unit cost in $1,000 gallons.

T.S.C. = the total operation and maintenance, administration, and debt service determined by yearly budget projections.

V_t = the total volume of wastewater contribution from all users per year as determined from projections from one city fiscal year to the next.

2. All users who fall within the Class II classification shall pay the same base unit charge per 1,000 gallons of water purchased as for the Class I users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

3. The volume or water purchased which is used in the calculation of sewer use charges may be adjusted by the superintendent if a user purchases a significant volume of water for a consumptive use and does not discharge it to the public sewers (i.e. filling swimming pools, industrial heating, and humidifying equipment, etc.). The user shall be responsible for documenting the quantity of waste discharged to the public sewer.

4. When either or both the total suspended solids or biochemical oxygen demand quantities discharged into the treatment works is in excess of

those described in section 18-236, above, thus being classified as Class II users, the following formula shall be used to compute the appropriate user charge:

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where;

C_u = Total user charge per unit of time.

V_c = Total cost for transportation and treatment of a unit of wastewater volume.

V_u = volume contribution per unit of time.

B_c = Total cost for treatment of a unit of biochemical oxygen demand (BOD).

B_u = Total BOD contribution for a user per unit of time.

S_c = Total cost of treatment of a unit of suspended solids.

S_u = Total suspended solids contribution from a user per unit of time. (Ord. # 334)

18-240. Surcharge fees. If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the discharge of such parameters in proportion to the amount of discharge. (Ord. # 334)

18-241. Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with section 18-210 of this chapter. (Ord. # 334)

18-242. Fees for industrial discharge monitoring. Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program. (Ord. # 334)

18-243. Billing. The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates specified by the town, subject to net and gross rates. (Ord. # 334)

18-244. Validity. All chapters or parts of chapters in conflict herewith are hereby repealed.

The validity of any section, clause, sentence, or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the Town of Selmer, Tennessee. (Ord. # 334)

CHAPTER 3

SEWAGE DISPOSAL

SECTION

18-301. Definitions.
18-302. Places required to have sanitary disposal methods.
18-303. When a connection to the public sewer is required.
18-304. When a septic tank shall be used.
18-305. Registration and records of septic tank cleaners, etc.
18-306. Use of pit privy or other method of disposal.
18-307. Approval and permit required for septic tanks, privies, etc.
18-308. Owner to provide disposal facilities.
18-309. Occupant to maintain disposal facilities.
18-310. Only specified methods of disposal to be used.
18-311. Discharge into watercourses restricted.
18-312. Pollution of ground water prohibited.
18-313. Enforcement of chapter.
18-314. Carnivals, circuses, etc.
18-315. Violations.

18-301. 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 excreta." 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 Public Health 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. (Code of 1977, § 8-301)

18-302. 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 excreta. (Code of 1977, § 8-302)

18-303. When connection to a public sewer is required. 1. Each property owner of the Town of Selmer, where people live and congregate in the town, shall be and is hereby required to connect and use the sewer facilities of the town where such facilities are available to such property.

2. Each property owner shall make the connection to the sewer facilities as soon as such facilities are constructed to the nearest point adjacent to his property.

3. All other sewage facilities, including privies, septic tanks, disposal fields, or other means of sewage disposal located in the Town of Selmer upon property where municipality sewer facilities are now available, or will be available, upon completion of the sewage system contemplated by the plans and specifications for construction are hereby declared a nuisance and not in keeping with the public health and welfare of the town and are hereby prohibited. (Code of 1977, § 8-303)

18-304. 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. (Code of 1977, § 8-304)

18-305. 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. (Code of 1977, § 8-305)

18-306. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under section 18-302 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (Code of 1977, § 8-306)

18-307. 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. (Code of 1977, § 8-307)

18-308. 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 section 18-302, or the agent of the owner, to provide such facilities. (Code of 1977, § 8-308)

18-309. 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. (Code of 1977, § 8-309)

18-310. 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. (Code of 1977, § 8-310)

18-311. 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. (Code of 1977, § 8-311)

18-312. 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. (Code of 1977, § 8-312)

18-313. 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. (Code of 1977, § 8-313)

18-314. 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. (Code of 1977, § 8-314)

18-315. 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. (Code of 1977, § 8-315)

CHAPTER 4

INDUSTRIAL PRETREATMENT ORDINANCE

SECTION

18-401. General provisions.
18-402. General sewer use requirements.
18-403. Pretreatment of wastewater.
18-404. Wastewater discharge permit eligibility.
18-405. Wastewater discharge permit issuance process.
18-406. Reporting requirements.
18-407. Compliance monitoring.
18-408. Confidential information.
18-409. Publication of industrial users in significant noncompliance.
18-410. Administrative enforcement remedies.
18-411. Judicial enforcement remedies.
18-412. Supplemental enforcement action.
18-413. Affirmative defenses to discharge violations.
18-414. Metered/estimated wastewater volume.
18-415. Fees and billings.
18-416. Miscellaneous provisions.
18-417. Falsifying information.

18-401. General provisions. 1. Purpose and policy. This ordinance sets forth uniform requirements for users of the wastewater collection system and the Publicly Owned Treatment Works (POTW) for the Selmer Utility District, of Selmer, Tennessee and to comply with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (40 C.F.R. part 403). The objectives of this ordinance are:

a. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

b. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

c. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

d. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

e. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;

f. To enable the Selmer Utility District to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.

This ordinance shall apply to all industrial and/or any significant users of the Selmer, Tennessee POTW. The ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review and enforcement procedures, requires industrial user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

2. Administration. Except as otherwise provided herein, the Director of Public Works, Town of Selmer shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the director may be delegated by the director to other town personnel.

3. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

a. "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

b. "Approval authority." The State of Tennessee and/or U.S. EPA, region IV.

c. "Authorized representative of the industrial user."

i. If the industrial user is a corporation, authorized representative shall mean:

(1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs a similar policy or decision-making functions for the corporation.

(2) The manager of one (1) or more manufacturing, production, or operation facilities provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively.

(iii) If the industrial user is a federal, state or local governmental facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.

(iv) The individuals described in subsections (ii) through (iii) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Director of Public Works, Town of Selmer.

d. "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty degrees (20°) centigrade expressed in terms of mass and concentration (mg/l).

(e) "Best Management Practices" or "BMPs." Schedules of activities prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-402(1) [Tennessee Rule 1200-4-14-.05(1)(a) and (2)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e. management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.

(f) "Categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 C.F.R. chapter I, subchapter N, parts 405--471.

(g) "Color." The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

(h) "Composite sample." The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

(I) "Director." The Director of Public Works, Town of Selmer, who is charged with certain duties and responsibilities by this ordinance or his duly authorized representative.

(j) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriated, the term may also be used as a designation for the regional water management division director or other duly authorized official of said agency.

(k) "Existing source." Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

(l) "Grab sample." An individual sample collected over a period of time not exceeding fifteen (15) minutes.

(m) "Indirect discharge" or "discharge." The introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the Act.

(n) "Industrial user" or "user." A source of indirect discharge.

(o) "Maximum allowable discharge limit." The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(p) "Interference." A discharge which alone or in conjunction with a discharge or discharges from other sources:

(I) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or

(ii) Exceeds the design capacity of the treatment works or collection system.

(q) "Monthly average." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

(r) "New source." (I) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(A) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(ii) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (i)(B) or (C) above but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(A) Begun, or caused to begin as part of a continuous onsite construction program:

(1) Any placement, assembly, installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

(s) "Noncontact cooling water." Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product.

(t) "Pass through." A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirements of the Selmer Utility District's NPDES permit (including an increase in the magnitude or duration of a violation).

(u) "Person." Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers

thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

(v) "pH." A measure of the acidity or alkalinity of a substance, expressed in standard units.

(w) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

(x) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(y) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

(z) "Pretreatment standards" or "standards." Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.

(aa) "Prohibited discharge standards" or "prohibited standards." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-402(1) of this chapter.

(bb) "Publicly Owned Treatment Works" or "POTW." A "treatment works" as defined by section 212 of the Act (33 U.S.C. 1292), which is owned by the state or municipality or utility district. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

(cc) "Utility district." The Selmer Utility District of Selmer, Tennessee.

(dd) "Utility." The Selmer Utility Department, Selmer, Tennessee.

(ee) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(ff) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.)

(gg) "Significant industrial user." Shall apply to:

(i) Industrial users subject to categorical pretreatment standards; or

(ii) Any other industrial user that:

(A) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater;

(B) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant; or

(C) Is designated as significant by the town on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(hh) "Slug load." Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 14-402(1) of this chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

(ii) "Standard Industrial Classification (SIC) code." A classification pursuant to the Standard Industrial Classification Manual issued buy the U.S. Office of Management and Budget.

(jj) "Storm water." Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

(kk) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

(ll) "Town." Town of Selmer, Tennessee.

(mm) "Toxic pollutant." One (1) of one hundred twenty-six (126) pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of section 307 (33 U.S.C. 1317) of the Act.

(nn) "Treatment plant effluent." Any discharge of pollutants from the Selmer POTW into waters of the State of Tennessee.

(oo) "Wastewater." Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(pp) "Wastewater treatment plant" or "treatment plant." That portion of the POTW designed to provide treatment of sewage and industrial waste.

Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

4. Abbreviations. The following abbreviations shall have the designated meanings:

BOD	-	Biochemical Oxygen Demand
C.F.R.	-	Code of Federal Regulations
COD	-	Chemical Oxygen Demand
EPA	-	U.S. Environmental Protection Agency
ERG	-	Enforcement Response Guide
L	-	Liter
mg	-	Milligrams
mg/l	-	Milligrams per liter
NPDES	-	National Pollutant Discharge Elimination System
O&M	-	Operation and Maintenance
POTW	-	Publicly Owned Treatment Works
RCRA	-	Resource Conservation and Recovery Act
SIC	-	Standard Industrial Classifications
SWDA	-	Solid Waste Disposal Act (42 U.S.C. 67901, et seq.)
TSS	-	Total Suspended Solids
U.S.C.	-	United States Code (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-402. General sewer use requirements. (1) Prohibited discharge standards. No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement. Furthermore, no industrial user may contribute the following substances to the POTW:

(a) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (140° F) (sixty degrees Celsius (60° C)) using the test methods specified in 40 C.F.R. 261.21.

(b) Any wastewater having a pH less than 5.0 or more than 10.0, unless authorized by the director, or otherwise causing corrosive structural damage to the POTW or equipment or endangering utility personnel. No wastewater having a pH of less than 5.0 shall be authorized and no wastewater having a pH of more than 12.5 shall be authorized, since this would be considered a hazardous waste under section 40 C.F.R. 261.22 of the Act.

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference.

(d) Any wastewater containing pollutants, including oxygen demanding pollutants COD, etc., released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW; or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.

(e) Any wastewater having a temperature greater than one hundred fifty degrees Fahrenheit (150° F) (sixty-five degrees Celsius (65° C)), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees Fahrenheit (104° F) (forty degrees Celsius (40° C)).

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(g) Any 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.

(h) Any trucked or hauled pollutants, except at discharge points designated by the director in accordance with § 18-403(5).

(i) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.

(j) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the Selmer Utility District's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life.

(k) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable state and federal regulations.

(l) Subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the director.

(m) Any sludges, or other residues from the pretreatment of industrial wastes.

(n) Any wastewater causing the treatment plant's effluent to fail a toxicity test.

(o) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.

(p) Obstruction of flow in a sewer system or injury of the system, or a nuisance or prevention of the effective maintenance or operation of the sewer system.

(q) Any discharge of fats, oils, or greases of animal or vegetable origin is limited to one hundred (100) mg/l.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

(2) Federal categorical pretreatment standards. The national categorical pretreatment standards found at 40 C.F.R. chapter I, subchapter N, parts 405-471 are hereby incorporated.

(3) State requirements. Tennessee Industrial State Pretreatment Standards are also incorporated into this ordinance.

(4) Specific pollutant limitations. The director is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

The following protection criteria are established to protect against pass through and interference. No person shall discharge wastewater which will cause the influent of the POTW to be in excess of the following maximum allowable influent limits.

PARAMETER	mg/L
Copper	0.163
Chromium III	0
Chromium VI	0.117
Nickel	0.217
Cadmium	0.00203
Lead	0.0175
Mercury	0.000524
Silver	0.00711
Zinc	0.684
Cyanide	0.0322
Toluene	0.214
Benzene	0.0150
1,1,1, Trichloroethane	0.200
Ethylbenzene	0.0285
Carbon Tetrachloride	0.0394
Chloroform	0.257
Tetrachloroethylene	0.125
Trichloroethylene	0.0907
1,2 Transdichloroethylene	0.00454
Methylene Chloride	0.131
Total Phenols	0.499

PARAMETER	mg/L
Naphthalene	0.00454
Total Phtalates, total	0.215

Total Toxic Organics (TTOs) - Limits for those parameters on the TTC) list will be considered on an individual case by case basis, by the director, for those not regulated in the 40 CFR Regulations of the Act for Categorical and/or NonCategorical Industries, considering such factors including but not limited to: concentration, flow, pound loading to the POTW and other considerations necessary to prevent pass through and protect the POTW as set forth by the director.

The director may develop best management practices, by ordinance or in individual or general wastewater discharge permits, to implement protection criteria and the requirements of § 18-402(1).

(5) Utility district right of revision. The Selmer Utility District reserves the right to establish, by industrial wastewater discharge permits issued through the town, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in § 18-401(1) of this chapter or the general and specific prohibitions in § 18-402(1), (2), (3) and (4) of this chapter and parameters not listed in § 18-402(4).

(6) Special agreement. The district reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW through the director of public works. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 C.F.R. 403.15. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 C.F.R. 403.13.

(7) Dilution. No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Ord. # 462, July 1998, as amended by Ord. #508, Dec. 2004, replaced by Ord. #600, March 2011, and amended by Ord. #665, Sept. 2017 ***Ch8_06-29-23***)

18-403. Pretreatment of wastewater. (1) Pretreatment facilities. Industrial users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in § 18-402(1) above within the time limitations specified by the EPA, the state, or the director whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the utility shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the director for review, and shall be acceptable to the director before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the utility under the provisions of this ordinance. The director shall be notified forty-eight (48) hours prior to start-up of new or modified wastewater pretreatment facilities. Any subsequent changes in the wastewater pretreatment facilities or method of operation shall be reported to and be acceptable to the director.

(2) Additional pretreatment measures. (a) Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

(b) The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or general permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the director, shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired by the user at their expense.

(3) Accidental discharge/slug control plan. The director may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two (2) years the director shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges.

(b) Description of stored chemicals.

(c) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in § 18-402(1) of this chapter.

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off; worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(4) Tenant responsibility. Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

(5) Hauled wastewater. (a) Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the director, provided such wastes do not violate § 18-402 of this chapter or any other requirements established or adopted by the Selmer Utility District.

(b) The discharge of hauled industrial wastes and/or wastewater as "industrial septage" requires prior approval and a wastewater discharge permit from the utility. The director shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation or cause pass through of the POTW or adversely affect the quality of the POTW sludge. Waste haulers are subject to all other sections of this ordinance.

(c) Industrial waste haulers may discharge loads only at locations designated by the director. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(6) Underground storage tank wastewater. Wastewater from contaminated underground storage tank sites within the legal boundaries of the Selmer Utility District may be discharged to the POTW only when and if a

permit application, as prescribed by the director is applied for and a special "underground storage tank wastewater discharge permit" as prescribed by the director, is issued to the owner and/or tenant of the property at which the contaminated wastewater is generated. All other aspects of this ordinance will be in force for these permits also.

(7) Vandalism. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of utility property, (i.e. automatic samplers and other field equipment). Any person found in violation of this requirement shall be subject to the sanctions set out in §§ 18-410 through 18-412 below. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-404. Wastewater discharge permit eligibility. (1) Wastewater survey. When requested by the director, all industrial and/or commercial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The director is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this ordinance.

(2) Wastewater discharge permit requirement. (a) It shall be unlawful for any significant industrial user to discharge wastewater into the Selmer Utility District's POTW without first obtaining a wastewater discharge permit from the director, except that a significant industrial user that has filed a timely application pursuant to § 18-404(3) of this chapter may continue to discharge for the time period specified therein. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in §§ 18-410 through 18-412. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(b) The director may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(3) Wastewater discharge permitting: existing connections. Any significant industrial user which discharges industrial waste into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the utility for a wastewater discharge permit in accordance with § 18-404(6) below, and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this ordinance, except in accordance with a wastewater discharge permit issued by the director, or in the

case, a valid permit exists and does not violate any part of this ordinance, shall not have to re-apply until the permit expiration date.

(4) Wastewater discharge permitting: new connection. Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least sixty (60) days prior to the date upon which any discharge will begin.

(5) Wastewater discharge permitting: extra jurisdictional industrial users. (a) Any existing significant industrial user located beyond the Selmer Utility District limits and discharging into the Selmer Sewer System shall submit a wastewater discharge permit application, in accordance with § 18-404(6) below, within ninety (90) days of the effective date of this ordinance, or in the case, a valid permit exists and does not violate any part of this ordinance, shall not have to re-apply until the permit expiration date. New significant industrial users located beyond the Selmer Utility District limits shall submit such applications to the director at least sixty (60) days prior to any proposed discharge into the POTW.

(b) Alternately, the director may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

(6) Wastewater discharge permit application contents. In order to be considered for a wastewater discharge permit, all industrial and/or commercial users required to have a wastewater discharge permit must submit the information required by § 18-406(1)(b) of this chapter. The director shall approve a form to be used as a permit application. In addition, the following information may be requested:

(a) Identifying information. (i) The name and address of the facility including the name of the operator and owners.

(ii) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

(b) Environmental permits. A list of any environmental control permits held by or for the facility.

(c) Description of operations. (i) A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

(ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be discharged to the POTW;

(iii) Number and type of employees, hours of operation, and proposed or actual hours of operation of the industry;

(iv) Each product produced by type, amount, process and processes, and rate of production;

(v) Type and amount of raw materials processed (average and maximum per day); and

(vi) The site plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(d) Time and duration of the discharge.

(e) Flow measurement. Information showing the measured average, or estimated, if approved by the director, daily and maximum flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 C.F.R. 403.6(e).

(f) Measurement of pollutants. (i) Identify the categorical pretreatment standards applicable to each regulated process.

(ii) Submit the results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the utility, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-406(10).

(iii) Sampling must be performed in accordance with procedures set out in § 18-406(11).

(g) Any requests to be covered by a general permit based on § 18-404(7).

(h) Any other information as may be deemed necessary by the director to evaluate the permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

(7) <u>Wastewater discharge permitting: general permits</u>. (a) At the discretion of the director, the director may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(i) Involve the same or substantially similar types of operations;

(ii) Discharge the same types of wastes;

(iii) Require the same effluent limitations;

(iv) Require the same or similar monitoring; and

(v) In the opinion of the director, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(b) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production, processes, the types of wastes generated, and the location for monitoring all wastes covered by the general permit.

(c) The director will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in § 18-404(7)(a) and applicable state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit. [See C.F.R. 403.8(f)(1)(iii)(A)(1) through (5)]

(d) The director may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the combined wastestream formula or net/gross calculations. [See 40 C.F.R. 403.6(e) and 40 C.F.R. 403.15]

(8) Application signatories and certification. (a) All wastewater discharge permit applications, industrial user reports, and certification statements including the quarterly report to the utility, must be signed by an authorized representative of the industrial user and contain the certification statement in § 18-406(15)(a).

(b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted by an authorized representative.

(9) Wastewater discharge permit decisions. The director will evaluate the data furnished by the industrial user and may require additional information. Within sixty (60) days of receipt of a completed wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. The director may deny any application for an individual or general wastewater discharge permit. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-405. Wastewater discharge permit issuance process. (1) Wastewater discharge permit duration. Wastewater discharge permits shall be issued for a specific time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the

director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Wastewater discharge permit contents. Wastewater discharge permit shall include such conditions as are reasonably deemed necessary by the director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

(a) Wastewater discharge permits must contain the following conditions:

(i) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years.

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification and approval from the director, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(iii) Effluent limits, including best management practices, based on applicable pretreatment standards.

(iv) Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(v) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(vi) A copy of the Selmer Utility District's, "Enforcement Response Guide."[1]

(vii) Requirements to control slug discharge, if determined by the director to be necessary.

(b) Wastewater discharge permits may contain, but need not be limited to, the following:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(ii) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

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[1]The Selmer Utility District's "Enforcement Response Guide" is available in the recorder's office.

(iii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(iv) Development and implementation of spill control plans, total toxic organics control plans, or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.

(v) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.

(vi) The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW.

(vii) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.

(viii) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

(ix) Other conditions as deemed appropriate by the director to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

(3) Wastewater discharge permit appeals. Any person, including the industrial user, may petition the director to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

(a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(c) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(d) Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.

(e) Aggrieved parties may seek an appeal under § 18-410(10)(a) and (b). Parties dissatisfied with the decision of the board may seek

judicial review, which shall be limited as provided in 1 C. 4-21.5-5-14(d)(1)–(5).[1]

(5) Wastewater discharge permit modification. (a) The director may modify an individual wastewater discharge permit for good cause including, but not limited to, the following:

(i) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

(ii) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.

(iii) A change in the POTW that requires either temporary or permanent reduction or elimination of the authorized discharge.

(iv) Information indicating that the permitted discharge poses a threat to the Selmer Utility District's POTW, utility personnel, or the receiving waters.

(v) Violation of any terms or conditions of the wastewater discharge permit.

(vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.

(vii) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13.

(viii) To correct typographical or other errors in the wastewater discharge permit.

(ix) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(b) The director may modify a general permit for good cause, including but not limited to the following reasons:

(i) To incorporate any new or revised federal, state or local pretreatment standards or requirements.

(ii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

(iii) To correct typographical or other errors in the wastewater discharge permit.

(iv) To reflect a transfer of the facility ownership or operation to a new owner or operator.

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[1]Judicial enforcement remedies is § 18-411 of this municipal code.

(5) Wastewater discharge permit transfer. Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the director and the director approves the wastewater discharge permit transfer. The notice to the director must include a written certification by the new owner and/or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes.

(b) Identifies the specific date on which the transfer is to occur.

(c) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

(6) Wastewater discharge permit revocation. Wastewater discharge permits may be revoked for the following reasons:

(a) Failure to notify the utility of significant changes to the wastewater prior to the changed discharge.

(b) Failure to provide prior notification to the utility of changed condition pursuant to § 18-406(5).

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.

(d) Falsifying self-monitoring reports.

(e) Tampering with Selmer Utility District's monitoring equipment.

(f) Refusing to allow the utility timely access to the facility premises and records.

(g) Failure to meet effluent limitations.

(h) Failure to pay fines.

(i) Failure to pay sewer charges.

(j) Failure to meet compliance schedules.

(k) Failure to complete a wastewater survey or the wastewater discharge permit application.

(l) Failure to provide advance notice of the transfer of a permitted facility.

(m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

(7) Wastewater discharge permit reissuance. A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with § 18-404(6) a minimum of sixty (60) days period to the expiration of the industrial user's existing wastewater discharge permit.

(8) Regulation of waste received from other jurisdictions. (a) If another municipality or user located within another municipality, contributes wastewater to the POTW, the director shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by subsection (a) above, the director shall request the following information from the contributing municipality:

(i) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(ii) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(iii) Such other information as the director may deem necessary.

(c) An intermunicipal agreement, as required by subsection (a) above, shall contain the following conditions:

(i) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits, including required Baseline Monitoring Reports (BMR) which are at least as stringent as those set out in § 18-402(4) of this chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Selmer ordinance or local limits;

(ii) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(iii) A provision specifying which pretreatment implementation activities, including wastewater discharge permits issuance, inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the director; and which of these activities will be conducted jointly by the contributing municipality and the director;

(iv) A requirement for the contributing municipality to provide the director with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(v) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(vi) Requirements for monitoring the contributing municipality's discharge;

(vii) A provision ensuring the director access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director; and

(viii) A provision specifying remedies available for breach of the terms of the intermunicipal agreement. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-406. Reporting requirements. (1) Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the utility a report which contains the information listed in subsection (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the utility a report which contains the information listed in subsection (b) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(b) The industrial user shall submit the information required by this section including:

(i) All information required in § 18-404(6)(a)(i), (b), (c)(i), and (e).

(ii) Measurement of pollutants.

(A) The user shall provide the information required in § 18-404(6)(f)(i)–(iii).

(B) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this subsection.

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority.

(D) Sampling and analysis shall be performed in accordance with § 18-406(10).

(E) The director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(F) The baseline report shall indicate the time, date, and place of sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(G) In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.

(iii) Certification. A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis–and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(iv) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standard; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-406(2) of this chapter.

(v) Signature and report certification. All baseline monitoring reports must be signed and certified in accordance with § 18-406(15)(a) of this chapter and signed by an authorized representative as defined in § 18-401(3)(c).

(2) Compliance schedule progress report. (a) The following conditions shall apply to the schedule required by § 18-406(1)(b)(iv).

(b) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation).

(c) No increment referred to above shall exceed nine (9) months.

(d) The industrial user shall submit a progress report to the director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, (and, if appropriate) the steps being taken by the industrial user to return to the established schedule.

(e) In no event shall more than nine (9) months elapse between such progress reports to the director.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in §§ 18-404(5)(e) and (f) and 18-406(1)(b)(ii) of this chapter. For all industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-406(15)(a). All sampling must be done in conformance with § 18-406(11).

(4) Periodic compliance reports. (a) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the director but in no case less than four (4) times per year (in April, in July, in October, in January) each covering the previous three (3) month period, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 18-406(15)(a). In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the director or pretreatment standard necessary to determine the compliance status of the user.

(b) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(c) If an industrial user subject to the reporting requirements in and of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in § 18-406(11)

and analytical methods prescribed in § 18-406(10) of this chapter, the results of this monitoring shall be included in the report.

(d) Periodic compliance reports may be waived by the director if the utility is at least monitoring the discharge quarterly, and no process wastewater is discharged to the Selmer POTW.

(5) Report of changed conditions. Each industrial user is required to notify the director of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least sixty (60) days before the change.

(a) The director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-404(6).

(b) The director may issue a wastewater discharge permit under § 18-404(9) or modify an existing wastewater discharge permit under § 18-405(4).

(c) No industrial user shall implement the planned changed conditions(s) until and unless the director has responded to the industrial user's notice.

(d) For purposes of this requirement flow increases of twenty-five percent (25%) or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

(6) Reports of potential problems. (a) In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in § 18-402(1) of this chapter), it is the responsibility of the industrial user to immediately telephone and notify the utility of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

(b) Within five (5) days following such discharge, the industrial user shall, unless waived by the director, submit a detailed written report describing the causes of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.

(c) Failure to notify the utility of potential problem discharges shall be deemed a separate violation of this ordinance.

(d) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (a) above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

(e) Significant industrial users are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from nonsignificant industrial and/or commercial users. All industrial and/or commercial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the utility as the director may require.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by an industrial user indicates a violation, the industrial user must notify the director within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the report to the director within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the utility performs monitoring at the industrial user at least once a month, or if the utility performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling, or if the industrial user's regular monitoring activity will result in samples being taken within thirty (30) days of the industry becoming aware of the violation, unless, directed by the director of public works to do so.

If the Selmer Utility District performs sampling in lieu of the industrial user, the Selmer Utility District will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(9) Notification of the discharge of hazardous waste. (a) Any industrial user who commences the discharge of hazardous waste shall notify the utility, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of; would be a hazardous waste under 40 C.F.R. part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than one hundred (100) kilograms (two hundred twenty pounds (220 lbs.)), of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the

wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under § 18-406(5) above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of §§ 18-406(1), (3), and (4) above.

(b) Dischargers are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms (thirty-three pounds (33 lbs.)) of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. 261.30(d) and 261.33(e). A discharge of more than fifteen (15) kilograms (thirty-three pounds (33 lbs.)) of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. 261.30(d) and 261.33(e), requires a one (1) time notification.

Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the utility, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) All industries permitted by the utility, shall make a one (1) time notification to the director stating if the company is subject to the reporting conditions in § 18-406(a)–(b).

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or reports shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and

analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (b) and (c) below, the industrial user must collect wastewater samples using twenty-four (24) hour flow proportional composite collection techniques unless time-proportional composite sampling or grab sampling is authorized by the director. Where time-proportional composite sampling or grab sampling is authorized by the Selmer Utility District, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 C.F.R. 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Selmer Utility District, as appropriate. In addition, grab samples may be required to show compliance with daily maximum discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and 00-day compliance reports required in § 18-406(1) and (3) [Tennessee Rule 1200-4-14-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by § 18-406(4) [Tennessee Rule 1200-4-14-.12(5) and (8)] the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Determination of noncompliance. The director may use a grab sample(s) to determine noncompliance with pretreatment standards.

(13) Timing. Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, the date of receipt of the report shall govern.

(14) Record keeping. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established

under § 18-402(4). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or WWF or when requested by the director or the regional administrator.

(15) Certification statements. (a) Certification of permit applications. User reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-404(8); users submitting baseline reports on compliance with the categorical pretreatment standard deadlines under § 18-403 [See 40 C.F.R. 403.12(d)]; users submitting periodic compliance reports required by § 18-406(a) through (c) [See 40 C.F.R. 403.12(e) and (h)], and users submitting an initial request to forego sampling of a pollutant on the basis of § 18-406(4)(b) [See 40 C.F.R. 403.12(e)(2)(iii)]. The following certification statement must be signed by an authorized representative as defined in § 18-401(3)(c):

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-407. Compliance monitoring. (1) Inspection and sampling. The director shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the director or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where an industrial user has security measures in force which require proper identification and clearance before entry into its

premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the utility, will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

(b) The utility shall have the right to set up on the industrial user's property, or require installation of; such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) The director may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be born by the industrial user.

(e) Unreasonable delays in allowing utility personnel access to the industrial user's premises shall be a violation of this ordinance.

(2) Search warrants. If the director and/or his representative has been refused access to a building, structure or property or any part thereof; and if the director and/or his representative has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as part of a routine inspection program of the utility designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the town attorney, to the appropriate court, the utility may seek a search and/or seizure warrant describing therein the specific location subject to the warrant. The request by the utility shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the director in the company of a uniformed police officer. In the event of an extreme emergency affecting public health and safety, inspections shall be made without the issuance of a warrant. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-408. Confidential information. Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from utility inspection and sampling activities, shall be available to the public without restriction–unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When

requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person tarnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 C.F.R. 2.302 will not be recognized as confidential information and will be available to the public without restriction. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-409. Publication of industrial users in significant noncompliance. The utility shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the utility, a list of the industrial users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-402;

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-402 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other discharge violation of a pretreatment standard or requirement as defined by § 18-402 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of utility personnel or the general public);

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the utility's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance

with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violation(s) which the utility determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-410. Administrative enforcement remedies. (1) Enforcement Response Guide (ERG). The Director of Public Works of the Selmer Utility District shall prepare, for passage, by the Mayor and Board of Commissioners of the City of Selmer, an Enforcement Response Guide[1] (ERG) to insure that the requirements of 40 C.F.R. part 403 of the Clean Water Act will be met. The ERG shall outline various administrative actions the director may take for various pretreatment violations. The maximum fine shall be one thousand dollars ($1,000.00) per violation. The director shall review and update, on an annual basis, for the mayor and board of commissioners any changes needed to insure compliance with the federal, state and local pretreatment regulations as listed in the Act and this ordinance.

(2) Notification of violation. Whenever the director finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the director or his agent may serve upon said user a written notice of violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the utility to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. Degrees of violation are listed in the Selmer Utility District "Enforcement Response Guide." The utility notice of violation is in the form of a Letter of Violation (LOV) as listed in the (ERG).

(3) Consent orders. The director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as the administrative orders issued pursuant to § 18-410(4) and (5) below and shall be judicially enforceable. The

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[1]The Selmer Utility District's "Enforcement Response Guide" is available in the recorder's office.

utility consent orders are in the form of administrative orders as listed in the Selmer Utility District Enforcement Response Guide.

(4) Show cause hearing. The director may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for 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 ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

(5) Compliance orders. When the director finds that a user has violated or continues to violate the ordinance, wastewater discharge permit or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time stated, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user. The compliance orders are in the form of enforcement compliance schedules, issued by the utility, through the Selmer Utility District Enforcement Response Guide.[1]

(6) Cease and desist orders. When the director finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements;

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[1]The Selmer Utility District's "Enforcement Response Guide" is available in the recorder's office.

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(7) Administrative penalties. (a) Notwithstanding any other section of this ordinance, any user that is found to have violated any provision of this ordinance, its wastewater discharge permit, and orders issued hereunder, or any other pretreatment standard or requirements may be fined in an amount not to exceed one thousand dollars ($1,000.00) as set forth in the Enforcement Response Guide. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines may be assessed for each day during the period of violation.

(b) Assessments may be added to the user's next scheduled sewer service charge and the director shall have such other collection remedies as may be available for other service charges and fees.

(c) Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of percent, ten percent (10%) of the unpaid balance and interest shall accrue thereafter at a rate of five percent (5%) per month. A lien against the individual user's property will be sought for unpaid charges, fines, and penalties.

(d) Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit the director shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the industrial user. The director may add the costs of preparing administrative enforcement actions such as notices and orders to the fine.

(e) Issuance of an administrative fine shall not be a prerequisite for taking any other action against the user.

(8) Emergency suspensions. The director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the

director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings set forth in § 18-410(9) are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director, prior to the date of any show cause or termination hearing under § 18-410(4) and (9).

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(9) Termination of discharge. In addition to those provisions in § 18-405(6) of this chapter, any user that violates the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in § 18-402 of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 18-410(4) of this chapter why the proposed action should not be taken.

(10) Appeals. (a) Any user affected by any decision, action or determination, including cease and desist orders, made by the director, interpreting or implementing the provisions of this ordinance, may file with the director a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

(b) If the ruling made by the director is unsatisfactory to the person requesting reconsideration, he may, within ten (10) days after notification of utility action, file a written appeal to the mayor and board of city commissioners. The written appeal shall be heard by the board within thirty (30) days from the date of filing. The board of city commissioners shall make a final ruling on the appeal within thirty (30) days of the close of the meeting. The director's decision, action, or

determination shall remain in effect during such period of reconsideration. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-411. Judicial enforcement remedies. (1) Injunctive relief. Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the director may petition the Circuit Court of McNairy County through the Selmer Utility District's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the Selmer Utility District. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(2) Civil penalties. (a) Any user which has violated or continues to violate this ordinance, any order or wastewater discharge permit hereunder; or any other pretreatment standard or requirement shall be liable to the director for a maximum civil penalty of one thousand dollars ($1,000.00) per violation per day. In the case of a monthly or other long-term average discharge limit, penalties may accrue for each day during the period of the violation.

(b) The director may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Selmer Utility District.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

(3) Criminal penalties. (a) Any user who willfully or negligently violates this ordinance, any order or wastewater discharge permit hereunder; or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000.00) per violation per day or imprisonment or both. In the case of a monthly or other long-term average discharge limit, penalties may accrue for each day during the period of the violation.

(b) Any user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of at least one thousand dollars ($1,000.00) per violation per day or imprisonment or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) Any user who knowingly makes false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or order issued hereunder or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than one thousand dollars ($1,000.00) per violation per day or imprisonment or both.

(4) Remedies nonexclusive. The provision in §§ 18-410 through 18-412 are not exclusive remedies. The utility reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Selmer Utility District's Enforcement Response Guide (ERG). However, the utility reserves the right to take other action against any user when the circumstances warrant. Further, the utility is empowered to take more than one (1) enforcement action against any noncompliant user. These actions may be taken concurrently. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-412. Supplemental enforcement action. Liability insurance. The director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any orders, or a previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-413. Affirmative defenses to discharge violations. (1) Upset.

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c) are met.

(c) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the industrial user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(iii) The industrial user has submitted the following information to the utility within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

(A) A description of the indirect discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and time or, if not corrected, the anticipated time the noncompliance is expected to continue;

(C) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(2) General/specific prohibitions. (a) A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in Tennessee Rule 1200-4-14-.05(1)(a) and the specific prohibitions in Tennessee Rule 1200-4-14-.05 (2)(c), (2)(d), (2)(e), (2)(f), and (2)(g) of this rule where the user can demonstrate that:

(i) It did not know 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; and

(ii) A local limit designed to prevent pass through and/or interference, as the case may be, fits one (1) of the following descriptions:

(A) The local limit was developed in accordance with paragraph (3) of this rule 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; or

(B) The local limit has not been developed in accordance with paragraph (3) of this rule for the pollutant(s) that caused the pass through or interference, the user's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the WWF was regularly in compliance with the WWF's NPDES permit requirements and, in the ase of interference, applicable requirements for sewage sludge use or disposal.

(3) Bypass.

(a) (i) "Bypass" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

(ii) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (c) and (d) of this section.

(c) (i) If an individual user knows in advance of the need for a bypass, it shall submit prior notice to the utility, at least ten (10) days before the date of the bypass if possible.

(ii) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the utility within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the 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 director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) (i) Bypass is prohibited, and the director may take enforcement action against an industrial user for a bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The industrial user submitted notices as required under subsection (c) of this section.

(ii) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three (3) conditions listed in subsection (d)(A) of this section. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-414. Metered/estimated wastewater volume. (1) Metered water supply. User charges and fees shall be based upon the total amount of water used from all sources unless, in the opinion of the director, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the director.

(2) Metered wastewater volume and metered divisions. For users where, in the opinion of the director, a significant portion of the water received from any metered source does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the user charges and fees will be applied against the volume of water discharged from such premises into the community sewer. Written notification and proof of the diversion of water must be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the director and at the user's expense. Such meters may measure either the amount of

sewage discharged or the amount of water diverted. Such meters shall be tested for accuracy at the expense of the user when deemed necessary by the director.

(3) Estimated wastewater volume. (a) Users without source meters. For users where, in the opinion of the director, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the director. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.

(b) Users with source meters. For users who, in the opinion of the director, divert a significant portion of their flow from a sanitary sewer, the user charges may be based upon an estimate of the volume prepared by the user, provided the user obtains wastewater discharge authorization and pays the applicable user charges and fees. The estimate must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-415. Fees and billings. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the town's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable recovery of EPA administered federal wastewater grants.

(2) Wastewater discharge permit fees. A permit fee may be charged for the issuance of wastewater discharge in accordance with § 18-405. The permit fee will be assessed at the time of permit issuance.

(3) Billing. The town's charges and fees will consist of a pretreatment factor to be applied to the standard sewer use charge. The pretreatment factor will cover reimbursement for the following:

(a) Reimbursement of cost of setting up and operating town's pretreatment program.

(b) Reimbursement for monitoring, inspections, and surveillance procedures.

(c) Reimbursement for reviewing accidental discharge procedures and construction.

(d) Reimbursement for filing and review of appeals.

(e) Reimbursement for other activities as may be necessary to carry out the requirements contained herein.

The town may change the pretreatment factor for any industrial user as often as may be necessary to fully reimburse the town for expenses incurred.

(4) Surcharge fees. If it is determined by the town that the discharge of other parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter of parameters shall be borne by the discharge of such parameters in proportion to the amount of discharge. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-416. Miscellaneous provisions. (1) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other impairment to the POTW, the Selmer Utility District may assess a charge against the user for the work required to clean and/or repair the sanitary sewer system and/or the POTW, and add such charge or charges to the user's charges and fees.

(2) Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

(3) Conflicts. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance, are hereby repealed to the extent of the inconsistency or conflict. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

18-417. Falsifying information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than six (6) months, or by both. (Ord. # 462, July 1998, as replaced by Ord. #600, March 2011)

CHAPTER 5

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

SECTION

18-501. Objectives.
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18-501. Objectives. The objectives of this Ordinance are to:

(1) To protect the public potable water system of Selmer Water System from the possibility of contamination or pollution by isolating within the customer's internal distribution system, such contaminants or pollutants that could backflow or backsiphon into the public water system;

(2) To promote the elimination or control of existing cross connections, actual or potential, between the customer's in-house potable water system and non-potable water systems, plumbing fixtures, and industrial piping systems;

(3) To provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (as added by Ord. #542, Sept. 2006, and replaced by Ord. #654, March 2016 ***Ch8_06-29-23***)

18-502. Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section, when used in the interpretation and enforcement of this article:

(1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of .a non-pressurized receiving vessel. An approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than six inches (6"). Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than six inches (6").

(2) "Atmospheric vacuum breaker" shall mean a device, which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(3) "Auxiliary intake" shall mean any water supply, on or available to a premises, other than that directly supplied by the public water system. These auxiliary waters may include water from another purveyor's public water system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.

(4) "Backflow" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross connection.

(5) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, steam and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross connection" shall mean any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water system as a result of backflow or backsiphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross connections.

(9) "Double check valve assembly" shall mean an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(10) "Double check detector assembly" shall mean an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(11) "Fire protection systems" shall be classified in six (6) different classes in accordance with AWWA Manual MU - Second Edition 1990. The six (6) classes are as follows:

Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any

kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

Class 3 shall be those with direct connection from public water supply mains, plus one (1) or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition),

Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within one thousand seven hundred feet(1,700') of the pumper connection.

Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" shall mean any system of piping or other arrangements whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device, which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(13) "Person" shall mean any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(14) "Potable water" shall mean water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(15) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(16) "Public water supply" shall mean the Selmer Water System, which furnishes potable water to the public for general use and which is recognized as

the public water supply by the Tennessee Department of Environment and Conservation.

(17) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(18) "Manager" shall mean the Manager of the Selmer Water System or his duly authorized deputy, agent or representative.

(19) "Water system" shall be considered as made up of two (2) parts, the utility system and the customer system. (a) The utility system shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system, up to the point where the customer's system begins (i.e. the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use. (as added by Ord. #542, Sept. 2006, and replaced by Ord. #654, March 2016 ***Ch8_06-29-23***)

15-503. Compliance with T.C.A. The Selmer Water System shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The Selmer Water System shall comply with § 68-221-711 of the Tennessee Code Annotated, as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses. (as added by Ord. #542, Sept. 2006, and replaced by Ord. #654, March 2016 ***Ch8_06-29-23***)

15-504. Regulated. (1) No water service connection to any premises shall be installed or maintained by the Selmer Water System unless the water supply system is protected as required by state laws and this ordinance. Service of water to any premises shall be discontinued by the Selmer Water System if a backflow prevention device required by this ordinance is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) It shall be unlawful for any person to cause a cross connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee

Department of Environment and Conservation, and the operation of such cross connection is at all times under the direction of the manager of the Selmer Water System.

(3) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required, and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the Selmer Water System shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this ordinance. (as added by Ord. #542, Sept. 2006, and replaced by Ord. #654, March 2016 ***Ch8_06-29-23***)

15-505. Permit required. (1) New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the Selmer Water System for approval.

(2) Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval from the Selmer Water System. (as added by Ord. #542, Sept. 2006, and replaced by Ord. #654, March 2016 ***Ch8_06-29-23***)

15-506. Inspections. The manager or his designated agent shall inspect all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and re-inspection shall be based on potential health hazards involved, and shall be established by the Selmer Water System in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. (as added by Ord. #542, Sept. 2006, and replaced by Ord. #654, March 2016 ***Ch8_06-29-23***)

18-507. Right of entry for inspections. The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Selmer Water System public water system for the purpose of inspecting the piping system therein for cross connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections, and shall be grounds for disconnection of water service. (as added by Ord. #542, Sept. 2006, and replaced by Ord. #654, March 2016 ***Ch8_06-29-23***)

18-508. Correction of violations. (1) Any person found to have cross connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this ordinance shall be allowed a reasonable time within which to comply with the provisions of this ordinance. After a thorough investigation of the existing conditions and an appraisal of the time required to complete the work, the manager or his representative shall assign an appropriate amount of time, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, the Selmer 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 is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this ordinance and Tennessee Code Annotated, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customer's on-site piping in such a manner that the two systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing. (as added by Ord. #542, Sept. 2006, and replaced by Ord. #654, March 2016 ***Ch8_06-29-23***)

18-509. Required devices. (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line, when any of the following conditions exist:

(a) Impractical to provide an effective air-gap separation;

(b) The owner/occupant of the premises cannot or is not willing to demonstrate to the Selmer Water System that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;

(c) The nature and mode of operation within a premise are such that frequent alterations are made to the plumbing;

(d) There is likelihood that protective measures may be subverted, altered or disconnected;

(e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required

(f) The plumbing from a private well or other water source enters the premises served by the public water system.

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems and swimming pools with no permanent plumbing installed) approved by the Tennessee Department of Environment and Conservation and the Selmer Water System, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the Selmer Water System prior to installation and shall comply with the criteria set forth in this ordinance. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Premises requiring reduced pressure principle assemblies or air gap separation -- high risk high hazards. Establishments which pose significant risk of contamination or may create conditions which pose an extreme hazard of immediate concern (high risk high hazards), the cross-connection control inspector shall require immediate or a short amount of time (fourteen (14) days maximum), depending on conditions, for corrective action to be taken. In such cases, if corrections have not been made within the time limits set forth, water service will be discontinued.

High risk high hazards require a reduced pressure principle (or detector) assembly. The following list is establishments deemed high risk high hazard and require a reduced pressure principle assembly:

(a) High risk high hazards:

(i) Mortuaries, morgues, autopsy facilities.

(ii) Hospitals, medical buildings, animal hospitals and control centers, doctor and dental offices.

(iii) Sewage treatment facilities, water treatment, sewage and water treatment pump stations.

(iv) Premises with auxiliary water supplies or industrial piping systems.

(v) Chemical plants (manufacturing, processing, compounding, or treatment).

(vi) Laboratories (industrial, commercial, medical research, school).

(vii) Packing and rendering houses.

(vii) Manufacturing plants.

(ix) Food and beverage processing plants.

(x) Automated car wash facilities.

(xi) Extermination companies.

(xii) Airports, railroads, bus terminals, piers, boat docks.

(xiii) Bulk distributors and users of pesticides, herbicides, liquid fertilizer, etc.

(xiv) Metal plating, pickling, and anodizing operations.

(xv) Greenhouses and nurseries.

(xvi) Commercial laundries and dry cleaners.

(xvii) Film laboratories.

(xviii) Petroleum processes and storage plants.

(xix) Restricted establishments.

(xx) Schools and educational facilities.

(xxi) Animal feedlots, chicken houses, and CAFOs.

(xxii) Taxidermy facilities.

(xxiii) Establishments which handle, process, or have extremely toxic or large amounts of toxic chemicals or use water of unknown or unsafe quality extensively.

(b) High hazard. In cases where there is less risk of contamination, or less likelihood of cross-connections contaminating the system, a time period of ninety (90) days maximum) will be allowed for corrections. High hazard is a cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, cause death, illness, and spread disease. (See Appendix A of manual.[1])

(4) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all medical facilities, all fountains, lawn irrigation systems, wells, water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by Selmer Water System as needing protection.

(a) Class I, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly; except:

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[1]Manual - Appendix A - is availale in the office of the recorder.

(i) a double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) a reduced pressure backflow prevention device shall be required where:

(A) Underground tire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems

(iii) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5 and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(d) Swimming pools with no permanent plumbing and only filled with hoses will require a hose bibb vacuum breaker be installed on the faucet used for filling.

(5) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(6) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required devices shall be installed in accordance with the provisions of this ordinance, by a person approved by the Selmer Water System who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair or test backflow prevention devices on fire protection systems.

(b) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device (except hose bibb vacuum breakers). All fittings shall be of brass construction, unless otherwise approved by the Selmer Water System, and shall permit direct connection to department test equipment.

(c) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(d) All devices shall be placed in the upright position in a horizontal run of pipe.

(e) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(f) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either:

(i) the floor,

(ii) the top of opening(s) in the enclosure or

(iii) maximum flood level, whichever is higher. Maximum height above the floor surface shall not exceed sixty inches (60").

(g) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in non-removable enclosures shall have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(h) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.

(i) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(j) In approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(k) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(l) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(m) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/backsiphonage through the drain may occur.

(n) Enclosures for outside installations shall meet the following criteria:

(i) All enclosures for backflow prevention devices shall be as manufactured by a reputable company or an approved equal.

(ii) For backflow prevention devices up to and including two inches (2"), the enclosure shall be constructed of adequate material to protect the device from vandalism and freezing and shall be approved by the Selmer Water System. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to and including two inches (2"), the enclosure shall be completely

removable. Access for backflow prevention devices two and one-half inches (2-1/2") and larger shall be provided through a minimum of two (2) access panels. The access panels shall be of the same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(vi) The enclosure shall be mounted to a concrete pad in no case less than four inches (4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of plus forty degrees Fahrenheit (+40°F) with an outside temperature of minus thirty degrees Fahrenheit (-30°F) and a wind velocity of fifteen (15) miles per hour.

(o) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one (1) device has been installed and the continuance of service is critical, the Selmer Water System shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, the Selmer Water System may require the installation of a duplicate device.

(p) The Selmer Water System shall require the occupant of the premises to keep any backflow prevention devices working properly, and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to the Selmer Water System. Expense of such repairs shall be borne by the owner for occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective shall constitute a violation of this ordinance and shall be grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Selmer Water System.

(6) Testing of devices. Devices shall be tested at least annually by the Selmer Water System by a qualified person possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A record of this test will be on file with

the Selmer Water System and a copy of this report will be supplied to the customer. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises. There will be no charge for annual testing. (as added by Ord. #542, Sept. 2006, and replaced by Ord. #654, March 2016 ***Ch8_06-29-23***)

18-510. Non-potable supplies. The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this ordinance. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

WATER UNSAFE FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color-coding of pipelines, in accordance with (OSHA) Occupational Safety and Health Act guidelines, shall be required in locations where in the judgment of the Selmer Water System, such coding is necessary to identify and protect the potable water supply. (as added by Ord. #542, Sept. 2006, and as added by Ord. #654, March 2016 ***Ch8_06-29-23***)

18-511. Statement required. Any person whose premises are supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the Selmer Water System a statement of the nonexistence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (as added by Ord. #654, March 2016 ***Ch8_06-29-23***)

18-512. Penalty; discontinuance of water supply. (1) Any person who neglects or refuses to comply with any of the provisions of this ordinance may be deemed guilty of a misdemeanor and subject to a fine.

(2) Independent of and in addition to any fines or penalties imposed, the manager may discontinue the public water supply service to any premises upon which there is found to be a cross connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross connection,

auxiliary intake, bypass or interconnection has been eliminated. (as added by Ord. #654, March 2016 ***Ch8_06-29-23***)

18-513. Provision applicable. The requirements contained in this ordinance shall apply to all premises served by the Selmer Water System and are hereby made part of the conditions required to be met for the Selmer Water System to provide water services to any premises. The provisions of this ordinance shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the ordinance is entitled to a due process hearing upon timely request. (as added by Ord. #654, March 2016 ***Ch8_06-29-23***)

CHAPTER 6

WATER ADDITIVE ACCOUNTABILITY ORDINANCE

SECTION
18-601. Accountability
18-602. Transparency/disclosure.
18-603. Compliance with Tennessee law.
18-604. Conformance with industry standards.
18-605. Violations.
18-606. Severability.

18-601. Accountability. To assure that any public water system operator servicing residents of the Town of Selmer has selected a product that is consistent with legislative intent that may be enacted for treating disease or effecting the bodily functions of the consumer to prevent disease, rather than making water more potable, the water system operator shall purchase and administer substances to the public drinking water for that purpose from only such chemical manufacturer or responsible entity in the chain of delivery of the product that shall provide the following declaration for their product, which the water system operator shall make readily accessible to the public:

> "This specific product, as it is constituted and inclusive of contaminants, and when ingested by consumers in dilution amounts consistent with concentration goals in water established by safe drinking water regulation for the product, is effective at treating the legislatively-identified specific disease or health condition, or effecting the bodily functions to prevent the specific adverse health condition in consumers, consistent with fulfilling the stated legislative intent for this product's use, and is safe for the full range of expected human consumption at these dilution ranges, without known or anticipated adverse health effects over a lifetime, Including for Infants, children, the elderly, and other populations afforded equal protection." (as added by Ord. #592, June 2010)

18-602. Transparency/disclosures. A public water system operator servicing residents of the Town of Selmer shall require as a condition of purchase that the manufacturer of a specific product that the water system operator adds or intends to add to the public drinking water for purposes of treating or effecting the bodily functions of consumers shall provide a list of all published, and unpublished if known, toxicological studies on the health and behavioral effects of continued use of their specific product. If toxicological studies on health and behavioral effects were performed on a different manufacturer's product of the same chemical classification, the responsible

party in the chain of delivery shall identify the manufacturing source of the product and a comparison of content and contaminant concentrations. An update of the list of toxicological studies on the health and behavioral effects of each product content and contaminant shall be required annually. The water system operator shall make these submissions by the manufacturer or responsible party in the chain of product delivery readily accessible to the public. (as added by Ord. #592, June 2010)

18-603. Compliance with Tennessee law. To assure that a public water system operator servicing residents of the Town of Selmer has selected and is administering a water additive product intended to treat or effect the bodily functions of consumers that meets all Tennessee laws, rules and regulations, the water system operator, as a condition of purchase, shall obtain a dated and correct copy of the product review data that was in force at the time of any bid or contractual agreement to sell chemicals to the water system operator that the manufacturer, or any other responsible party in the chain of delivery of the chemical, such as re-packager, is required to submit to NSF International in order to achieve manufacturer's or re-packager's certification that the manufacturer has met ANSI/NSF Standard 60.

This document production, which the water system operator shall make readily accessible to the public, shall include the dated submission that meets general requirement 3.2.1 of ANSI/NSF Standard 60, as adopted by the State of Tennessee, by including as published:

(1) A proposed maximum use level for the product;

(2) The composition of the formulation (in percent or parts by weight for each chemical in the formulation);

(3) The reaction mixture used to manufacture the chemical if applicable;

(4) Chemical Abstract number (CAS number), chemical name, and supplier for each chemical present in the formulation;

(5) A list of known or suspected impurities within the treatment chemical formulation and the maximum percent or parts by weight of each impurity;

(6) A description or classification of the process in which the treatment chemical is manufactured, handled and packaged;

(7) Any selected spectra (e.g. UV/visible, infrared) that has been required; and

(8) A list of published and unpublished toxicological studies relevant to the treatment chemical and the chemical and impurities present in the treatment chemical. (as added by Ord. #592, June 2010)

18-604. Conformance with industry standards. A public water system operator servicing residents of the Town of Selmer shall select and add to the public drinking water only such products intended to treat and effect the bodily

functions of consumers that meet the applicable published American Water Works Association (AWWA) standard for that product's specific chemical classification. In order to assure fulfillment of AWWA standards, an independent analysis by an American National Standards Institute (ANSI) or NSF International certified laboratory determining the content and specific concentrations of each contamination of each shipment of the product, to be correlated with the manufacturer's product review data described in § 18-603 above, shall be provided by the chemical manufacturer or responsible party in the chain of delivery. These batch analyses, and any reports, on each delivery of product shall be maintained and made immediately accessible to the public by the water system operator. (as added by Ord. #592, June 2010)

18-605. Violations. Violation of §§ 18-601 through 18-604 of this chapter is a public nuisance, and, without restriction for other remedies, may be abated as other nuisances under the laws of Tennessee. (as added by Ord. #592, June 2010)

18-606. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, that invalidity may not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. (as added by Ord. #592, June 2010)

TITLE 19

ELECTRICITY AND GAS

CHAPTER
1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY

SECTION
19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the Town of Selmer and its inhabitants under such franchise as the board of mayor and aldermen shall grant. The rights, powers, duties, and obligations of the town, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (Code of 1977, § 13-301)

CHAPTER 2

GAS[1]

SECTION
19-201. To be under board of mayor and aldermen.
19-202. Gas rates.
19-203. Meter deposits.
19-204. Connection charges.
19-205. Reconnection charges.
19-206. Access to facilities.

19-201. To be under board of mayor and aldermen. The board of mayor and aldermen shall have the same powers and duties with respect to the administration, operation, maintenance and control of the town's natural gas system as it has with respect to the water and sewer systems. (Code of 1977, § 13-401)

19-202. Gas rates. All natural gas shall be furnished under such rate schedules as the Town of Selmer Board of Mayor and Aldermen may from time to time adopt by resolution .[2] (Code of 1977, § 13-402, as replaced by Ord. #559, June 2007)

19-203. Meter deposits. A meter deposit of five dollars ($5.00) per meter connection will be required of all domestic customers. Deposits required of customers other than residential customers shall be set individually by the board of mayor and aldermen, based on an estimate of the monthly use of gas. Deposits shall be returned to the customer upon cessation of services and payment in full of bills. (Code of 1977, § 13-403)

19-204. Connection charges. Customers who make a deposit of fifteen dollars ($15.00) and order gas installation to be made will be furnished a service line not exceeding seventy-five (75) feet in length from the property line and not more than ten (10) feet beyond the nearest corner of the building, whichever distance is shorter. For such line, there shall be a charge of fifteen dollars ($15.00). In all cases that part of service lines in excess of this allowable distance to the meter installation shall be installed at the cost of the customer, but shall become the property of the municipal natural gas system. (Code of 1977, § 13-404)

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[1]See Ord. #428 (July 1994) of record in the office of the recorder for an ordinance granting a franchise for the distribution of gas to the municipality.

[2]Administrative resolutions are of record in the office of the town recorder.

19-205. Reconnection charges. Customers who order removal of service and within twelve (12) months make application for reinstallation at the same location, will be charged a fee of fifteen dollars ($15.00) when the reconnection is made.

Service installation for old customers at a new location will be handled as a new connection; however, no charge will made if a service connection at the new location exists. (Code of 1977, § 13-405)

19-206. Access to facilities. The application for gas service shall include a permit from the customer, allowing access to the meter, regulator and service line, to any official employee or employees of the municipal natural gas system. (Code of 1977, § 13-406)

TITLE 20

MISCELLANEOUS

CHAPTER
1. PUBLIC WORKS DEPARTMENT.
2. FAIR HOUSING ORDINANCE.

CHAPTER 1

PUBLIC WORKS DEPARTMENT

SECTION
20-101. Establishment.
20-102. Function and duties.
20-103. Public works director.

20-101. Establishment. There is hereby established for the Town of Selmer, Tennessee, a Public Works Department effective November 28, 1994. (as added by Ord. #430, Nov. 1994)

20-102. Function and duties. The function and duties of the public works department shall be the management, supervision and conduct of all municipal services associated with the construction, maintenance and repair of municipal streets or roads or roadways; the maintenance, upkeep and general repair of all municipally owned properties; all services associated with municipal collection and disposition of garbage, trash and rubbish; and the general operation of the municipally owned water and sewer system. (as added by Ord. #430, Nov. 1994)

20-103. Public works director. A person designated as the public works director shall be the head of the department of public works to be appointed in accordance with section 21 of the Charter of the Town of Selmer, Tennessee, and by the terms of this enabling Ordinance, the Board of Mayor and Aldermen of the Town of Selmer, Tennessee, are specifically authorized to prepare and adopt a job description for the public works director. (as added by Ord. #430, Nov. 1994)

CHAPTER 2

FAIR HOUSING

SECTION

20-201. Policy.
20-202. Definitions.
20-203. Unlawful practice.
20-204. Discrimination in the sale or rental of housing.
20-205. Discrimination in the financing of housing.
20-206. Discrimination in the provisions of brokerage services.
20-207. Exemption.
20-208. Administration.
20-209. Education and conciliation.
20-210. Enforcement.
20-211. Investigations; subpoenas; giving of evidence.
20-212. Enforcement by private persons.

20-201. Policy. It is the policy of the Town of Selmer to provide, within constitutional limitations, for fair housing throughout the community. (Ord. #439, § 1, May 1995)

20-202. Definitions. 1. "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

2. "Family" includes a single individual.

3. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and judiciaries.

4. "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

5. "Discriminatory housing practice" means an act that is unlawful under sections 20-204, 20-205, or 20-206. (Ord. #439, § 2, May 1995)

20-203. Unlawful practice. Subject to the provisions of subsection 20-203(2) and section 20-207, the prohibitions against discrimination in the sale or rental of housing set forth in section 20-204 shall apply to:

1. All dwellings except as exempted by subsection (2).

2. Nothing in section 20-204 shall apply to:

a. Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than

three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented

i. without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person and

ii. without the publication, posting or mailing, after notice of any advertisement or written notice in violation of section 20-204(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

b. rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

3. For the purposes of subsection (2), persons shall be deemed to be in the business of selling or renting dwellings if:

a. they have, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

b. they have, within the preceding twelve months, participated as agent, other than in the sale of his or her own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

c. they are the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families. (Ord. #439, § 3, May 1995)

20-204. Discrimination in the sale or rental of housing. As made applicable by section 20-203 and except as exempted by sections 20-203(2) and 20-207, it shall be unlawful:

1. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or handicap.

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status or handicap.

3. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status or handicap, or an intention to make any such preference, limitation, or discrimination.

4. To represent to any person because of race, color, religion, sex, national origin, familial status or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

5. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status or handicap.

6. To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

7. To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (Ord. #439, § 4, May 1995)

20-205. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against them in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or handicap of such person or of any person associated with them in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or

occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in the section shall impair the scope or effectiveness of the exception contained in section 20-203(2). (Ord. #439, § 5, May 1995)

20-206. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against them in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or handicap. (Ord. #439, § 6, May 1995)

20-207. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status or handicap. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. #439, § 7, May 1995)

20-208. Administration. 1. The authority and responsibility for administering this act shall be in the Mayor of Selmer.

2. The mayor may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his or her hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to themselves, as shall be appropriate and in accordance with law.

3. All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (Ord. #439, § 8, May 1995)

20-209. Education and conciliation. Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory

activities as will further the purposes of this chapter. They shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. (Ord. #439, § 9, May 1995)

20-210. Enforcement. 1. Any persons who claim to have been injured by a discriminatory housing practice or who believe that they will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor or Tennessee Human Rights Commission. Complaints shall be in writing and shall contain such information and be in such form as the mayor or Tennessee Human Rights Commission requires. Upon receipt of such a complaint, the mayor or Tennessee Human Rights Commission shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (3), the mayor or Tennessee Human Rights Commission shall investigate the complaint and give notice in writing to the person aggrieved whether they intend to resolve it. If the mayor or Tennessee Human Rights Commission decides to resolve the complaints, they shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

2. A complaint under subsection (1) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against them and with the leave of the mayor or Tennessee Human Rights Commission, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

3. If within thirty days after a complaint is filed with the mayor or Tennessee Human Rights Commission, the mayor or Tennessee Human Rights Commission has been unable to obtain voluntary compliance with this section, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor or Tennessee Human Rights Commission will assist in this filing.

4. If the mayor or Tennessee Human Rights Commission has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

5. In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

6. Whenever an action filed by an individual shall come to trial, the mayor or Tennessee Human Rights Commission shall immediately terminate all efforts to obtain voluntary compliance. (Ord. #439, § 10, May 1995)

20-211. Investigations; subpoenas; giving of evidence. 1. In conducting an investigation, the mayor or Tennessee Human Rights Commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the mayor or Tennessee Human Rights Commission first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor or Tennessee Human Rights Commission may issue subpoenas to compel his or her access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court of the district in which the investigation is taking place. The mayor or Tennessee Human Rights Commission may administer oaths.

2. Upon written application to the mayor or Tennessee Human Rights Commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor or Tennessee Human Rights Commission to the same extent and subject to the same limitations as subpoenas issued by the mayor or Tennessee Human Rights Commission himself or herself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his or her request.

3. Witnesses summoned by subpoena of the mayor or Tennessee Human Rights Commission shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by them.

4. Within five days after service of a subpoena upon any person, such person may petition the mayor or Tennessee Human Rights Commission to revoke or modify the subpoena. The mayor or Tennessee Human Rights Commission shall grant the petition if they find that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

5. In case of contumacy or refusal to obey a subpoena, the mayor or Tennessee Human Rights Commission or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

6. Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his or her power to do so, in obedience to the subpoena or lawful order of the mayor or Tennessee Human Rights Commission shall be fined not more than $1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the mayor or Tennessee Human Rights Commission pursuant to his or her subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

7. The town or Tennessee Human Rights Commission attorney shall conduct all litigation in which the mayor or Tennessee Human Rights Commission participates as a party or as amicus pursuant to this chapter. (Ord. #439, § 11, May 1995)

20-212. <u>Enforcement by private persons</u>. 1. The rights granted by sections 20-203, 20-204, 20-205, and 20-206 may be enforced by civil actions in state or local courts or general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or section 20-210(4) from time to time before bringing it to trial or renting dwellings; or

2. any persons because they are or have been, or in order to intimidate such person or any other person or any class or persons from:

a. participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15(a); or

b. affording another person or class of persons opportunity or protection so to participate, or

3. any citizens because they are or have been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15 (a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than $1,000, or imprisoned not more than one year, or both; and, if bodily injury results, shall be fined not more than $10,000, or imprisoned not more than ten years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (Ord. #439, § 12, May 1995)

ORDINANCE NO. 404

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION [AND REVISION] OF THE ORDINANCES OF THE TOWN OF SELMER, TENNESSEE.

WHEREAS some of the ordinances of the Town of Selmer 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 Selmer, 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 "Selmer Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF SELMER, 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 "Selmer 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 a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically

named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the 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)[1] 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.[2]

Each day any violation of the municipal code continues shall constitute a separate offense.

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[1]Ord. #435 (February 1995) which is of record in the office of the recorder, states in section 1 "That, from and after the effective date of this Ordinance, the monetary penalty for each violation of any municipal Ordinance, except moving traffic violations, shall be a fine not to exceed five-hundred dollars, ($500.00)."

[2]State law reference

For authority to allow deferred payment of fines, or payment by installments, see the Tennessee Code Annotated, section 40-24-101 et seq.

Section 6. Code as evidence. Any printed copy of the municipal code certified under the signature of the recorder shall be held to be a true and correct copy of such codification and may be read in evidence in any court without further proof of the provisions contained therein.

Section 7. 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 8. 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 9. 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 10. 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 11. 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, September 10, 1991.

Passed 2nd reading, October 8, 1991.

Passed 3rd reading, November 19, 1991.

Leo Tull
Mayor

Ann Lundberg
Recorder