THE
SODDY-DAISY
MUNICIPAL
CODE

Prepared by the

Municipal Technical Advisory Service
In cooperation with the Tennessee Municipal League

August 2022

CITY OF SODDY-DAISY, TENNESSEE

MAYOR

Rick Nunley

VICE MAYOR

Robert Cothran

COMMISSIONERS

Jim Coleman
Steve Everett
Gene Shipley

MANAGER/FINANCE DIRECTOR/RECORDER

Burt Johnson

PREFACE

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

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

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).

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

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

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such

ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of the codes team: Kelley Myers and Nancy Gibson is gratefully acknowledged.

Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

6-20-214. Style of ordinances. All ordinances shall begin, "Be it ordained by the city of (here insert name) as follows:." [Acts 1921, ch. 173, art. 5, § 1; Shan. Supp., § 1997a149; Code 1932, § 3546; T.C.A. (orig. ed.), § 6-2025.]

6-20-215. Ordinance procedure. (a) (1) Except as provided in subdivision (a)(2), every ordinance shall be read two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-22 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.

(2) Notwithstanding subdivision (a)(1), the board of commissioners governing any city incorporated under chapters 18-22 of this title may adopt ordinances pursuant to a consent calendar if the board unanimously passes an ordinance approving the consent calendar; provided, the ordinance approving the consent calendar shall require that:

(A) Each ordinance on the consent calendar be considered on two (2) different days in open session before its adoption and that not less than one (1) week shall elapse between first and second consideration;

(B) Copies of each ordinance adopted pursuant to the consent calendar be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading;

(C) If any board member objects to an ordinance on the consent calendar or any amendment is adopted to an ordinance on the consent calendar, then the ordinance shall be removed from the consent calendar and may be adopted pursuant to subdivision (a)(1); and

(D) Copies of the consent calendar shall be published along with the agenda prior to any meeting at which the consent calendar will be considered.

(3) A city that has established a consent calendar pursuant to subdivision (a)(2) may eliminate the consent calendar by passage of an ordinance in the same manner required to create the consent calendar.

(b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage; provided, that

it shall contain the statement that an emergency exists and shall specify the distinct facts and reasons constituting such an emergency.

(c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.

(d) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended, except by a new ordinance. [Acts 1921, ch. 173, art. 5, § 2; Shan. Supp., § 1997a150; Code 1932, § 3547; T.C.A. (orig. ed.), § 6-2026; Acts 1976, ch. 420, § 1; Acts 1989, ch. 175, § 9; Acts 1995, ch. 13, § 10; Acts 1996, ch. 652, § 4; Acts 2015, ch. 115, § 1.]

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TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

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[1]Charter reference

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

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Water and sewers: title 18.
Zoning: title 14.

CHAPTER 1

BOARD OF COMMISSIONERS[1]

SECTION

1-101. Time and place of regular meetings. The board of commissioners shall hold regular meetings at 7:00 P.M. on the first and third Thursday of each month in the municipal building. (2007 Code, § 1-101)

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

(1) Call to order by the mayor.
(2) Roll call by the recorder.
(3) Approval of minutes of the previous meeting by the recorder, and correction.
(4) Public discussion.
(5) Old business.

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[1]Charter reference

For detailed provisions of the charter related to the election, and to general and specific powers and duties of, the board of commissioners, see *Tennessee Code Annotated*, title 6, chapter 20. (There is an index at the beginning of chapter 20 which provides a detailed breakdown of the provisions in the charter.) In addition, see the following provisions in the charter that outline some of the powers and duties of the board of commissioners:

Appointment and removal of city judge: § 6-21-501.
Appointment and removal of city manager: § 6-21-101.
Compensation of city attorney: § 6-21-202.
Creation and combination of departments: § 6-21-302.
Subordinate officers and employees: § 6-21-102.
Taxation
  Change tax due dates: § 6-22-113.
  Power to levy taxes: § 6-22-108.
  Power to sue to collect taxes: § 6-22-115.
Removal of mayor and commissioners: § 6-20-220.

(6) New business.

(7) Reports from committees, members of the board of commissioners, and other officers.

(8) Announcements.

(9) Adjournment. (2007 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in *Robert's Rules of Order, Newly Revised*, shall govern the transaction of business by and before the board of commissioners at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (2007 Code, § 1-103)

1-104. Ordinance procedure. Pursuant to *Tennessee Code Annotated*, § 6-20-215, only the caption of proposed ordinances shall be read on both readings. (2007 Code, § 1-104)

1-105. Date of city election and transitional elections. (1) At the city election to be held on the second Tuesday of June, 2003, the voters of the city shall elect two (2) commissioners who shall serve until the first meeting of the board of commissioners following the general election to be held on the first Tuesday after the first Monday in November, 2006, or until their successors are elected and qualified.

(2) At the general election to be held on the first Tuesday after the first Monday in November, 2006, and at the election held every four (4) years after that date, the voters of the city shall elect two (2) commissioners who shall serve four (4) year terms of office, or until their successors are elected and qualified.

(3) At the city election to be held on the second Tuesday of June, 2005, the voters of the city shall elect three (3) commissioners who shall serve until the first meeting of the board of commissioners following the general election to be held on the first Tuesday after the first Monday in November, 2008, or until their successors are elected and qualified.

(4) At the general election to be held on the first Tuesday after the first Monday in November, 2008, and at the election held every four (4) years after that date, the voters of the city shall elect three (3) commissioners who shall serve four (4) year terms of office, or until their successors are elected and qualified. (2007 Code, § 1-105)

1-106. Salary of commissioners. Each commissioner shall serve without compensation. (2007 Code, § 1-106, as amended by Ord. #2011-2011-5, Feb. 2011)

CHAPTER 2

MAYOR[1]

SECTION

1-201. Duties and powers.[2] The mayor shall preside at all meetings of the board of commissioners, sign the journal of the board and all ordinances on their final passage, execute all deeds, bonds, and contracts made in the name of the city, and perform all acts that may be required of him by the charter, and any ordinances duly enacted by the board of commissioners, not in conflict with the charter. (2007 Code, § 1-201)

1-202. Salary of mayor. The Mayor shall serve without compensation. (2007 Code, § 1-202, as amended by Ord. #2011-2011-5, Feb. 2011)

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[1]Charter reference

For general charter provisions dealing with the election and duties of the mayor and vice mayor, see *Tennessee Code Annotated*, title 6, chapter 20, part 2, particularly §§ 6-20-201 and 6-20-203.

[2]Charter references

For detailed provisions of the charter outlining the election, power and duties of the mayor, see *Tennessee Code Annotated*, title 6, chapter 20, part 2, particularly, §§ 6-20-209, 6-20-213, and 6-20-219. For specific charter provisions in part 2 related to the following subjects, see the section indicated:

Election: § 6-20-201.
General duties: §§ 6-20-213 and 6-20-219.
May introduce ordinances: § 6-20-213.
Presiding officer: §§ 6-20-209 and 6-20-213.
Seat, voice and vote on board: § 6-20-213.
Signs journal, ordinances, etc.: § 6-20-213.

CHAPTER 3

RECORDER[1]

SECTION

1-301. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of commissioners and shall preserve the original copy of all ordinances in a separate ordinance book. (2007 Code, § 1-301)

1-302. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of commissioners, the city manager, and for the city which are not assigned by the charter, this code, or the board of commissioners to another corporate officer. He shall also have custody of, and be responsible for, maintaining all corporate bonds, records, and papers of the city. (2007 Code, § 1-302)

1-303. To be bonded and/or insured. The recorder shall be bonded and/or insured in a sum to be set by the board of commissioners, with such surety as may be acceptable to the board of commissioners before assuming the duties of his office. (2007 Code, § 1-303)

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[1]Charter references

For charter provisions outlining the duties and powers of the recorder, see *Tennessee Code Annotated*, title 6, chapter 21, part 4, and title 6, chapter 22. Where the recorder also serves as the treasurer, see *Tennessee Code Annotated*, title 6, chapter 22, particularly § 6-22-119.

CHAPTER 4

CITY MANAGER[1]

SECTION

1-401. Duties and powers.[2] The city manager shall be the chief administrative officer of the city and shall exercise such authority and control over law and ordinance violations, departments, officers and employees, and city purchases and expenditures as the charter prescribes, and shall perform all other duties required of him pursuant to the charter. (2007 Code, § 1-401)

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[1]Charter reference

For charter provisions outlining the appointment and removal of the city manager, see *Tennessee Code Annotated*, title 6, chapter 21, part 1, particularly § 6-21-101.

[2]Charter references

For specific charter provisions related to the duties and powers of the city manager, see the sections indicated:

Administrative head of city: § 6-21-107.
Appointment and removal of officers and employees: §§ 6-21-102, 6-21-108, 6-21-401, 6-21-601, 6-21-701, 6-21-704, and 6-22-101.
General and specific administrative powers: § 6-21-108.
School administration: § 6-21-801.
Supervision of departments: § 6-21-303.

CHAPTER 5

CODE OF ETHICS

SECTION

1-501. Applicability. This chapter is the code of ethics for personnel of the City of Soddy-Daisy. 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. (2007 Code, § 1-501)

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;

(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. (2007 Code, § 1-502)

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. (2007 Code, § 1-503)

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 policy, recuse himself from the exercise of discretion in the matter. (2007 Code, § 1-504)

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. (2007 Code, § 1-505)

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. (2007 Code, § 1-506)

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

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

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 interest of the municipality. (2007 Code, § 1-507)

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. (2007 Code, § 1-508)

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. (2007 Code, § 1-509)

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. (2007 Code, § 1-510)

1-511. Violations and penalty. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the 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. (2007 Code, § 1-511)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

CHAPTER 1

PARK AND RECREATION BOARD

SECTION

2-101. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, title 11, chapter 24, there is hereby created a park and recreation board consisting of five (5) members. All members of such board shall be appointed by the mayor to serve for terms of five (5) years or until their successors are appointed, for such terms that the term of one (1) member shall expire annually thereafter. The members of such board shall serve without pay. Any vacancy occurring otherwise than by expiration of a term shall be filled only for the unexpired term and all appointments shall be made by the mayor. (2007 Code, § 2-101)

2-102. Powers and functions. (1) The board shall act in an advisory capacity only (nonadministrative) to the recreation department, serving as a representative of the citizenry and adjunct of the commission, in all nonbudgetary matters pertaining to the recreation facilities and programs of the city. Such advisory duties shall include the recommendation of new recreational site locations, improvements, and operational personnel, recreational program content, rules, regulations, schedules, and similar controls pertaining to usage of public recreational facilities of the city, and shall be made by way of the appropriate recreation department and the city manager to the board of commissioners.

(2) The board may solicit, and acquire, on behalf of the city, by gift or donation, any property for public recreation, provided that the solicitation of the donation of real property shall have the prior concurrence of the board of commissioners. Any gifts or donations acquired, except real property, shall be transferred to the appropriate recreation department and shall become the property of the city. Any tentative donation of real property shall be processed

in the normal manner for acquiring city property and, if accepted, title thereto shall be taken in the name of the city.

(3) The board shall keep records and accounts of all activities of the board and shall make reports through the recreation director to the city manager whenever requested to do so.

(4) In exercising its powers and performing its duties as specified in this chapter, the board shall act through a majority of its members and the chairman of the board is requested to sign all papers and documents requiring the signature of the recreation board.

(5) No member of the board shall participate in the decision of any matter coming before the board in which such member has a monetary interest either directly or indirectly.

(6) Nothing in this chapter shall be construed as authorizing or empowering the park and recreation board or any of its members to impose any liability of any nature, financial or otherwise, upon the city. (2007 Code, § 2-102)

2-103. Removal of non-active members. Members who fail to appear at three (3) consecutive regularly scheduled meetings and/or called meetings without proper authorization, shall automatically be removed from membership on this board. Vacancies occurring because of removal in this manner shall be filled in the same manner as in the initial appointment but only for the unexpired term. (2007 Code, § 2-103)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge. The officer designated by the charter to handle judicial matters within the city shall preside over the city court, and shall be known as the city judge. (2007 Code, § 3-101)

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[1]Charter references
For provisions of the charter governing the city judge and city court operations, see *Tennessee Code Annotated*, title 6, chapter 21, part 5. For specific charter provisions in part 5 related to the following subjects, see the sections indicated:
- City judge:
  - Appointment and term: § 6-21-501.
  - Jurisdiction: § 6-21-501.
  - Qualifications: § 6-21-501.
- City court operations:
  - Appeals from judgment: § 6-21-508.
  - Appearance bonds: § 6-21-505.
  - Arrest warrants: § 6-21-504.
  - Docket maintenance: § 6-21-503.
  - Fines and costs:
    - Amounts: §§ 6-21-502, 6-21-507.
    - Collection: § 6-21-507.
    - Disposition: § 6-21-506.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket and records of the court. Pursuant to *Tennessee Code Annotated*, § 16-18-310(b), the clerk of the municipal court shall keep a complete docket of all matters coming before the city judge. 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. The municipal court clerk shall maintain all other records required by *Tennessee Code Annotated*, § 16-18-310(b). (2007 Code, § 3-201, modified)

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

In all cases heard and determined by him, the city judge shall impose court costs which shall be set by ordinance adopted by the board of commissioners.

One dollar ($1.00) of the court costs in each case 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. (2007 Code, § 3-202, modified)

3-203. Installment payment of fines, penalties, and costs.

(1) Authorization. When upon a plea or upon the court's own motion, satisfactory proof is shown to the court that the offender is unable to pay any fine, penalties or costs imposed by the court, the court may order such payment in equal monthly installations. The amount of the installments shall be set by the court, the first payment to begin thirty (30) days after the imposition of the fine, penalties and costs until the same are satisfied in full.

(2) Default. Upon default by the defendant of such monthly installment(s), the entire balance of the fines, penalties and costs shall immediately be due and payable. (2007 Code, § 3-203)

3-204. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month, he shall submit to the board of commissioners 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. (2007 Code, § 3-204)

3-205. Contempt of court. Contempt of court is punishable by a fine of fifty dollars ($50.00), or such lesser amount as may be imposed in the judge's discretion. (2007 Code, § 3-205)

3-206. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to a trial and disposition of his case, within a reasonable time. 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. (2007 Code, § 3-206, modified)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.[1] The city judge shall have the power to issue warrants as provided by *Tennessee Code Annotated*, §§ 40-6-201, *et seq*. (2007 Code, § 3-301, modified)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may, in his discretion, issue a summons, ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (2007 Code, § 3-302, modified)

3-303. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (2007 Code, § 3-303)

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[1]State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time; provided such alleged offender is not drunk or otherwise in need of protective custody. (2007 Code, § 3-401)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (2007 Code, § 3-402)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be up to the sum of two hundred fifty dollars ($250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county. No other type bond shall be acceptable. (2007 Code, § 3-403)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

CHAPTER 1

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-101. Title. This chapter shall be known as "the occupational safety and health program plan" for the employees of the City of Soddy-Daisy. (Ord. #2020-2021-9, April 2021)

4-102. Purpose. The City of Soddy-Daisy in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

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

(a) Top Management Commitment and Employee Involvement;

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

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

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

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

(3) Record, keep, preserve, and make available to the commissioner of labor and workforce development, or persons within the department of labor and workforce development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the commissioner of labor and workforce development with regard to the adequacy of the form and content of records.

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this Program Plan. (Ord. #2020-2021-9, April 2021)

4-103. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Soddy-Daisy shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #2020-2021-9, April 2021)

4-104. Standards authorized. The occupational safety and health standards adopted by the City of Soddy-Daisy are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (*Tennessee Code Annotated*, title 50, chapter 3). (Ord. #2020-2021-9, April 2021)

4-105. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by *Tennessee Code Annotated*, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #2020-2021-9, April 2021)

4-106. Administration. For the purposes of this chapter, Steve Grant, Public Works Director, is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop,

and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEAL TH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by *Tennessee Code Annotated*, title 50. (Ord. #2020-2021-9, April 2021)

4-107. <u>Funding the program</u>. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Soddy-Daisy (Ord. #2020-2021-9, April 2021)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depositories for city funds. The following banks are designated as the official depositories of all municipal funds[2]:

(1) Checking account: First Tennessee Bank;
(2) Savings account: Community National Bank; and
(3) Certificates of deposit:
  (a) Citizens Tri-County Bank;
  (b) Sun Trust Bank; and
  (c) AmSouth Bank (Regions Bank). (2007 Code, § 5-101)

5-102. Fiscal year. The city's fiscal year begins on July 1 and ends on June 30 of the year next following.[3] (2007 Code, § 5-102)

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[1]Charter reference
Finance and taxation: title 6, chapter 22.

[2]Charter reference
Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

[3]Charter reference
Tennessee Code Annotated, § 6-22-121 provides that the fiscal year of the city shall begin on July 1 unless otherwise provided by ordinance.

CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES

SECTION

5-201. Collection. All municipal property taxes shall be collected by the county trustee and shall become due and delinquent at the same time as the county taxes. (2007 Code, § 5-201)

CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's Business Tax Act (*Tennessee Code Annotated*, §§ 67-4-701, *et seq*.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (2007 Code, § 5-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the city manager to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (2007 Code, § 5-302)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected. The city manager is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in *Tennessee Code Annotated*, title 57, chapter 6.[1] (2007 Code, § 5-401)

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[1]State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax in accordance with § 57-6-103. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-209.

CHAPTER 5

PURCHASING

SECTION

5-501. Purchasing.[1] (1) The limit above which the competitive bidding of purchases is required is increased to ten thousand dollars ($10,000.00).

(2) Any purchase more than ten thousand dollars ($10,000.00) other than billings of a routine nature, such as utilities, gasoline, office supplies, insurance payments, or previously approved contracts, will be presented to the board of commissioners for approval. (2007 Code, § 5-501, as amended by Ord. #2009-2010-12, May 2010 and Ord. #2018-2019-7, Feb. 2019)

[1]See the Comprehensive Purchasing Ordinance, adopted by Ordinance #17, April 5, 2007, in the office of the city recorder.

CHAPTER 6

HOTEL/MOTEL OCCUPANCY TAX

SECTION

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

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

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

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

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

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

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days. (Ord. #2019-2020-6, June 2020)

5-602. Permit required. No person will conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, agent or attorney, any hotel as defined in this chapter in the city without having

obtained a permit from the city manager or his designee to do so. (Ord. #2019-2020-6, June 2020)

5-603. Fee. The fee for each hotel permit will be twenty-five dollars ($25.00). (Ord. #2019-2020-6, June 2020)

5-604. Not transferable. No permit issued under this chapter shall be transferred or assigned. (Ord. #2019-2020-6, June 2020)

5-605. Duration. Hotel permits shall be issued annually and shall expire on the last day of December of each year. (Ord. #2019-2020-6, June 2020)

5-606. Register required; availability for inspection. Every person to whom a permit is issued under this chapter shall at all times keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms in his hotel. Such register shall be signed in every case by the persons renting a room or by someone under his direction, and after registration is made and the name of the guest is inscribed as herein provided, the manager shall write the number of the room which guest is to occupy, together with the time such room is rented, before such person is permitted to occupy such room. The register shall be open to inspection at all times to the city manager or his/her designee. (Ord. #2019-2020-6, June 2020)

5-607. Rooms to be numbered. With the exception of short term residential rentals, each sleeping room and apartment in every hotel in the city shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number. (Ord. #2019-2020-6, June 2020)

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

(2) The proceeds received from this tax shall be available for the city's general fund. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel. (Ord. #2019-2020-6, June 2020)

5-609. Payment of the tax. Payment of the tax by the motel to the city shall be no later than the twentieth day of each month for the preceding month. (Ord. #2019-2020-6, June 2020)

5-610. Compensation to the hotel. The hotel may deduct two percent (2%) from the amount paid to the city. (Ord. #2019-2020-6, June 2020)

5-611. Interest and penalty for late payment. The hotel operator is responsible for paying interest on delinquent taxes, eight percent (8%) per annum, plus a penalty of one percent (1%) per month. (Ord. #2019-2020-6, June 2020)

5-612. Records requirement. The hotel operator must keep records for three (3) years, with the right of inspection by the city. (Ord. #2019-2020-6, June 2020)

TITLE 6

LAW ENFORCEMENT

CHAPTER

CHAPTER 1

POLICE AND ARREST[1]

SECTION

6-101. When police officers to make arrests.[1] Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

1. Whenever he is in possession of a warrant for the arrest of the person;
2. Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person; and
3. Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (2007 Code, § 6-101)

6-102. Disposition of persons arrested. 1. For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other city ordinance shall be brought before the city court. However, if the city court is not in session, the arrested person shall be allowed to post bond with the city court clerk, or, if the city court clerk is not available, with the ranking police officer on duty. If the arrested person fails or refuses to post bond, he shall be confined pending his release by the city judge. In addition, if the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

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

2. Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (2007 Code, § 6-102)

6-103. Citations in lieu of arrest in non-traffic cases.[1] Pursuant to *Tennessee Code Annotated*, §§ 7-63-101, *et seq*., the board of commissioners appoints the fire chief in the fire department and the codes enforcement officer in the building department special police officers having the authority to issue citations in lieu of arrest. The fire chief in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 1 of this municipal code of ordinances. The codes enforcement officer in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and residential codes adopted in title 12 of this municipal code of ordinances.

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

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (2007 Code, § 6-103)

6-104. Summonses in lieu of arrest. Pursuant to *Tennessee Code Annotated*, §§ 7-63-201, *et seq*., which authorizes the board of commissioners to designate certain city enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the animal control officer in the animal control department and the public works director in the public works department to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

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[1]Municipal code reference

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

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summons notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him. The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:

(1) Have a summons issued by the clerk of the city court; or

(2) May seek the assistance of a police officer to witness the violation.

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

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (2007 Code, § 6-104)

CHAPTER 2

CORRECTIONAL FACILITIES

SECTION

6-201. Definitions. (1) "Contractor" means any private entity under a contractual agreement with the City of Soddy-Daisy, the State of Tennessee or public authority to provide correctional services to persons under the custody of the Tennessee Department of Corrections, the sheriff of any county, the criminal, circuit, chancery, sessions, municipal, or juvenile court of any county, or who may have custody of such persons pursuant to an order of any such court. In the case of a minor, in addition to the order of a court, custody may be premised upon the contractor having legal custody of such person either by law, by order of a court, or by designation pursuant to the written permission of a parent or legal guardian.

(2) "Correctional services" means the following functions, services, and activities, when provided by a contractor to persons to whom the contractor has been given legal custody:

(a) Education, training and job programs;

(b) Recreational, religious, and other activities;

(c) Development and implementation assistance for classification, management information systems, or other information systems or services;

(d) Housing, food services, commissary, medical services, transportation, sanitation, or other ancillary services;

(e) Counseling, special treatment programs, or other programs for special needs; and

(f) Operation of facilities; including management, custody of persons, and providing security.

(3) "Facility" means any structure located within the corporate limits of the City of Soddy-Daisy by a contractor for the purpose of providing correctional services, and any appurtenant structures, along with any parcel of land on which such structure or structures may be located. (2007 Code, § 6-201)

6-202. Permit required. It is unlawful for a contractor to operate a facility to provide correctional services within the City of Soddy-Daisy without a permit to do so. (2007 Code, § 6-202)

6-203. Application for a permit. A contractor seeking a permit to operate a facility must make application to the city for such a permit and provide such information as the city manager deems necessary to determine whether a contractor will operate the facility in such a manner so that any direct threats to the health, safety, or property of other individuals or property owners are minimized. The city manager is authorized to make any reasonable request for information from the contractor seeking a permit which would be relevant to such determination. The city manager may also seek information from other governmental entities or third parties relevant to such determination. (2007 Code, § 6-203)

6-204. Adverse decision on a permit. If the city manager's decision relative to the permit is adverse, his decision may be appealed to the city commission within seven (7) days of the city manager's written notice to the contractor making such application. Such appeal must be in writing and delivered to the city manager or city recorder. Within thirty (30) days of such appeal, the city commission will make a de novo determination on the issue of whether to issue the permit, upon the same criteria considered by the city manager. The determination of the city manager will be final, subject to any appeal rights that may be provided by state law. (2007 Code, § 6-204)

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER

CHAPTER 1

FIRE CODE ADOPTED[1]

SECTION

7-101. Fire code adopted. Pursuant to the authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purposes of regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life and property in the occupancy of buildings and premises in the City of Soddy-Daisy, the *International Fire Code*[2], 2015 edition, and *NFPA 101 Life Safety Code*[3], 2015 edition as recommended by the International Code Council, is hereby adopted by reference and included as a part of this code. Pursuant to the

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

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

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

requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. Said fire code is adopted and incorporated as though copied herein, and shall be controlling with the corporate limits. (Ord. #2018-2019-6, Feb. 2019)

7-102. Enforcement. The fire code herein adopted shall be enforced by the chief of the fire department. (Ord. #2018-2019-6, Feb. 2019)

7-103. Definition of "municipality". Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the City of Soddy-Daisy. (Ord. #2018-2019-6, Feb. 2019)

7-104. 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. (Ord. #2018-2019-6, Feb. 2019)

7-105. Variances. The chief of the fire department may recommend to the city council variances from the provisions of the *International Fire Code*, 2015 edition, *Life Safety Code 101*, 2015 edition. Upon application, in writing by any property owner or lessee, 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. (Ord. #2018-2019-6, Feb. 2019)

7-106. Appeals. Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the city manager within thirty (30) days from the date of the decision appealed. (Ord. #2018-2019-6, Feb. 2019)

7-107. Appendices to the code adopted. The following appendices/annexes to the *International Fire Code*, 2015 edition, and as further amended in this chapter, are hereby adopted as part of the official fire code of the city.

(1) *International Fire Code*, 2015 edition:
Appendix B - Fire Flow Requirements for Buildings.
Appendix C - Fire Hydrant Location and Distribution.
Appendix D - Fire Apparatus.
Appendix E - Hazard Categories.
Appendix F - Hazard Ranking.

Appendix G - Cryogenic Fluids-Weight and Volume Equivalents.
Appendix H - Hazardous Material Management Plan and Hazardous Materials Inventory Statement.
Appendix I - Fire Protection Systems - Noncompliant Conditions.
Appendix J - Building Information Sign.

(2) Amendments to code adopted:
Section 105.1 through 105.3.8 shall be deleted in its entirety.
Section 105.5 through 105.7.18 shall be deleted in its entirety.
Section 109 Violations and penalties shall be deleted in its entirety and replaced with the city code reflecting those subjects.
Section 111.4 Failures to comply shall be deleted.
Section 113 shall be deleted in its entirety. (Ord. #2018-2019-6, Feb. 2019)

7-108. Violations and penalty. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder, or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or fail to comply with such an order as affirmed or modified by the fire chief or city manager or by a court of competent jurisdiction, with the time fixed herein. The application of a penalty under the general penalty clause for the city code shall not be held to prevent the enforced removal of prohibited conditions. (Ord. #2018-2019-6, Feb. 2019)

CHAPTER 2

FIRE DISTRICT

SECTION

7-201. Fire limits described. The corporate fire district shall be as follows: all areas within a general business district zone. (2007 Code, § 7-101)

CHAPTER 3

FIRE DEPARTMENT[1]

SECTION

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the Board of Commissioners of the City of Soddy-Daisy. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the city manager and such number of physically-fit subordinate officers and firemen as the chief shall appoint. (2007 Code, § 7-201)

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[1]Charter references

For detailed charter provisions governing the operation of the fire department, see *Tennessee Code Annotated*, title 6, chapter 21, part 7. For specific provisions in part 7 related to the following subjects, see the sections indicated.

- Fire chief
  - Appointment: § 6-21-701.
  - Duties: § 6-21-702.
  - Emergency: § 6-21-703.
- Fire marshal: § 6-21-704.
- Firemen
  - Appointment: § 6-21-701.
  - Emergency powers: § 6-21-703.

Municipal code reference

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

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; and

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (2007 Code, § 7-202)

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. (2007 Code, § 7-203)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the city commission each quarter, and at the end of the year a detailed annual report shall be made. (2007 Code, § 7-204)

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

All personnel of the fire department shall receive such compensation for their services as the board of commissioners may from time to time prescribe. (2007 Code, § 7-205)

7-306. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firemen and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (2007 Code, § 7-206)

7-307. Chief to be assistant to state officer. Pursuant to requirements of *Tennessee Code Annotated*, § 68-17-108, 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 *Tennessee Code Annotated*, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (2007 Code, § 7-207)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-401. Restrictions on fire service outside city limits. No personnel or equipment of the fire department shall be used for fighting any fire outside the city limits unless the fire is on city property or, in the opinion of the fire chief or city manager, is in such hazardous proximity to property owned or located within the city as to endanger the city property, or unless the board of commissioners has developed policies for providing emergency services outside of the city limits or entered into a contract or mutual aid agreement pursuant to the authority of:

(1) The Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, as amended, codified in *Tennessee Code Annotated*, §§ 58-21-601, *et seq*.[1]

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[1]State law references

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

(2) *Tennessee Code Annotated*, §§ 12-9-101, *et seq*.[1]
(3) *Tennessee Code Annotated*, § 6-54-601.[2] (2007 Code, § 7-301)

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[1]State law references

Tennessee Code Annotated, § 6-54-601, authorizes municipalities (1) To enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with individual fire departments to furnish one another with fire fighting assistance; (2) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide the latter with firefighting assistance; and (3) Provide fire protection outside their city limits to either areas or citizens on an individual contractual basis whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided.

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

CHAPTER 5

FIREWORKS

SECTION

7-501. Definitions. (1) For the purpose of this chapter, "fireworks" are defined as provided in *Tennessee Code Annotated*, title 68, chapter 104, or any amendment thereto.

(2) For the purpose of this chapter, the prohibited zone referred to in § 7-502 begins at (and is inclusive of) the 700 block of O'Sage Drive, extending generally west along O'Sage Drive to its intersection with Dayton Pike, then generally south along Dayton Pike to its intersection with Hixson Pike, then generally east to include the 11600 block of Hixson Pike. Within such boundaries, said zone extends from the then-existing water line of Soddy Lake outward five hundred (500) yards.

(3) For the purpose of this chapter, "public gathering" means any assembly of fifteen (15) or more persons on public property. (2007 Code, § 7-401)

7-502. Use prohibited at times relating to public display. At any time a public fireworks display is made by the City of Soddy-Daisy, the Soddy-Daisy Volunteer Fire Department, or any public or civic organization permitted or sanctioned by the City of Soddy-Daisy, the use or possession of fireworks within the prohibited zone described in § 7-501(2) by non-permitted individuals is unlawful. (2007 Code, § 7-402)

7-503. Use at public gatherings. It shall be unlawful to possess or discharge fireworks at any public gathering. (2007 Code, § 7-403)

CHAPTER 6

FIRE PREVENTION RAPID ENTRY REQUIREMENTS

SECTION

7-601. Purpose. The Board of Commissioners of the City of Soddy-Daisy has determined that the health, welfare, and safety of its citizens is promoted by requiring certain structures to have a key lock box installed on the exterior of the structure to aid the fire department in gaining access to or within a structure when responding to calls for an emergency service and to aid in access into or within a building that is secured or is unduly difficult to gain entry into. (Ord. #2016-2017-5, Nov. 2016)

7-602. Key lock box system. The following structure shall be equipped with a key lock box at or near the main entrance or such other location as required by the fire marshal or fire chief.

(1) Commercial or industrial structures and places of assembly protected by an automatic fire alarm and/or automatic fire suppression system or any such structure secured in a manner that restricts access during an emergency.

(2) Multi-family residential structures that have restricted access through locked doors, but have a common corridor for access to living quarters.

(3) Schools, whether public or private, healthcare facilities and nursing homes, unless the building is staffed or open twenty-four (24) hours a day three hundred sixty-five (365) days a year.

(4) Any building deemed necessary for life safety by the fire marshal or fire chief.

(a) All new construction subject to this section shall have a key lock box installed and operational before a certificate of occupancy will be issued.

(b) All structures in existence on the effective date of this chapter and that are subject to subsection (3) above shall have twelve (12) months from the effective date of this chapter to comply.

(c) The type of key lock box to be implemented in the city shall be a knox box brand system. (Ord. #2016-2017-5, Nov. 2016)

7-603. Installation. (1) All knox boxes shall be installed on the left side of the main door.

(2) All knox boxes shall be flush mounted and sixty inches (60") from the ground to the center of the box if possible.

(3) In the event the box cannot be installed per subsections (1) and (2) above, the fire marshal or fire chief may designate in writing a different location and installation specifications.

(4) All real estate or property with an electric gate that meets the requirements of § 7-602(4)(c) shall have a knox box installed outside the gate and contain a method of access to the gate as well as all other required items listed in § 7-604. (Ord. #2016-2017-5, Nov. 2016)

7-604. Contents of lock box. The contents of the box are as follows: keys to:

(1) Locked points of ingress or egress, whether on the interior or exterior of the structure;

(2) All mechanical and electrical rooms;

(3) Elevators and their control rooms;

(4) Fire alarm panels, reset pull stations, or other fire protective devices; and

(5) Any special keys designated by the fire marshal or fire chief. (Ord. #2016-2017-5, Nov. 2016)

7-605. Exceptions to requirements to install a key lock box. The following structures are exempt from the mandate to install a key lock box system:

(1) Single-family and multi-family structures that do not meet the requirements in § 7-602(4)(a).

(2) Structures that have twenty-four (24) hours a day three hundred sixty-five (365) days a year onsite security personnel or other personnel onsite.

(3) Businesses that are open and staffed twenty-four (24) hours a day three hundred sixty-five (365) days a year which may include, but are not limited to, nursing homes, hospitals, police stations, etc.

(4) Rental storage facilities where there is a single lock on the separate storage pods that is supplied by the renter; however, the entry security gates or doors will require a knox box if electronically controlled or locked with a master key issued by the landlord to all tenants.

(5) Any facility not having an automatic fire alarm/suppression system unless it meets the requirements in § 7-602(4)(a).

(6) Any banking facility. (Ord. #2016-2017-5, Nov. 2016)

7-606. Violations and penalty. Any person, firm, corporation or agent who shall violate any provision of this code, or fail to comply therewith, or with any of the requirements thereof shall be guilty of a misdemeanor and shall be

punished according to the general penalty provisions of this code of ordinances. (Ord. #2016-2017-5, Nov. 2016)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Definition of intoxicating liquors. As used in this chapter, unless the context indicates otherwise, "intoxicating liquors" shall be defined to

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

include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101.

8-102. Consumption of alcoholic beverages on-premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Soddy-Daisy, Tennessee. It is the intent of the board of commissioners that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in Soddy-Daisy, Tennessee, the same as if said code sections were copied herein verbatim. (2007 Code, § 8-102)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, title 57, chapter 4, § 301) for the City of Soddy-Daisy to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Soddy-Daisy of alcoholic beverages for consumption on the premises where sold. (2007 Code, § 8-103)

8-104. Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Soddy-Daisy shall remit annually to the city recorder the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (2007 Code, § 8-104)

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Soddy-Daisy, pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (2007 Code, § 8-105)

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code*

Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (2007 Code, § 8-106)

8-107. Brown bagging and corkage, generally. The provisions of this chapter shall apply to all persons who operate an establishment selling setups for mixed drinks or provide corkage setups for wine, and who permit brown bagging in their establishment. It shall not apply to those persons or businesses only having a beer permit as provided in title 8, chapter 2 of the city code or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the alcoholic beverage commission of the state under the provisions of *Tennessee Code Annotated*, § 57-4-201. (Ord. #2010-2011-3, Oct. 2010)

8-108. Definitions. As used in this chapter, the following definitions shall apply:

(1) "Brown bag" or "brown bagging" means the practice of patrons, customers or guests bringing alcoholic beverages upon their premises or any person selling setups for mixed drinks or providing corkage services for wine.

(2) "Corkage" shall mean the practice of providing patrons, customers, or guests with opening devices and glasses in connection with the consumption of wine.

(3) "Person selling setups for mixed drinks" means and includes any person deriving receipts from the sale of setups for mixed drinks consumed on the premises.

(4) "Setups for mixed drinks" means and includes sales of water, soft drinks, fruit juices, or any item capable of being used to prepare a mixed drink at such establishment. (Ord. #2010-2011-3, Oct. 2010)

8-109. Beer board and police to enforce sections. (1) The beer board shall issue permits, and revoke or suspend licenses issued for the activities described in § 8-108, except where such action would be inconsistent with any specific provision of this chapter.

(2) The city police and building inspector shall enforce all laws, ordinances and rules regulating establishments selling setups for mixed drinks, wine consumption, or permitting brown bagging. (Ord. #2010-2011-3, Oct. 2010)

8-110. Hours regulated. No permittee under this chapter shall sell any setup for purposes of mixing with alcoholic beverages, provide corkage services, or permit any alcoholic beverages to be consumed on the premises between the hours of 3:00 A.M. and 6:00 A.M. on any day of the week. The permittee shall not permit or suffer the presence of any alcoholic beverages on the premises during such hours. (Ord. #2010-2011-3, Oct. 2010)

8-111. Sales to incapacitated or incompetent persons prohibited. No permittee under this chapter shall permit or allow any intoxicated person to be on the premises or to dispense, serve, sell setups, or provide corkage to such persons. (Ord. #2010-2011-3, Oct. 2010)

8-112. Employment of minors. No person under the age of eighteen (18) years shall be permitted to dispense, serve, sell setups, or provide corkage in any establishment which has been issued a permit under this chapter without being in full compliance with *Tennessee Code Annotated*, § 57-3-704. (Ord. #2010-2011-3, Oct. 2010)

8-113. Immoral acts prohibited at premises. It shall be unlawful for any person to appear or be on the premises of a permittee under this chapter so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for any permittee to permit or allow any such person to appear or be in or on the premises. Further, it shall be unlawful to perform, or for the permittee to allow to be performed, on the premises any of the following acts or kinds of conduct:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;

(3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;

(4) The permitting by a permittee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus; or

(5) The displaying of films or pictures depicting acts, a live performance of which is prohibited by the sections quoted above. (Ord. #2010-2011-3, Oct. 2010)

8-114. Telephone and reports of disorders. All permittees are required to maintain a telephone in good working order on the premises and to report all fights and other public disorders occurring on such premises immediately, whether or not participants in such disorder have left the premises. (Ord. #2010-2011-3, Oct. 2010)

8-115. Permit: required. No person shall engage in the business of operating establishments selling setups for mixed drinks, providing corkage services, or permit brown bagging on any premises without having been issued a permit therefor. Such permit shall be obtained upon application and payment of fees as hereinafter provided. A duly issued permit shall allow such establishments to permit its patrons, customers, or guests to bring alcoholic

beverages upon its premises for purposes of personal consumption or to otherwise permit brown bagging. (Ord. #2010-2011-3, Oct. 2010)

8-116. Application; fee. (1) All applications for a permit to sell setups for mixed drinks or to permit brown bagging shall be filed with the city recorder. The police department shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this chapter, and report all findings to the beer board. The beer board shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.

(2) The application shall be accompanied by a fee of one hundred dollars ($100.00) for use in offsetting the expense of investigating the applicant and an annual renewal fee of fifty dollars ($50.00) every year thereafter to be paid on or before January 1 of each year. (Ord. #2010-2011-3, Oct. 2010)

8-117. Location to be designated. The location of the premises at which the business of the permittee will be conducted shall be designated in the permit and in the application therefor. (Ord. #2010-2011-3, Oct. 2010)

8-118. Grounds for refusal. (1) No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this chapter or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this chapter has been revoked within three (3) years or is under suspension.

(2) No such establishment shall be located within five hundred feet (500'), as measured from any doorway entrance of the applicant regularly used for public ingress and egress to the nearest doorway entrance to the school, church, or other place of public gathering to the nearest corner of the licensed establishment.

(3) All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in subsection (2) of this section.

(4) The beer board may, in its discretion, require any applicant for a permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the premises; and when, because of limiting conditions such as applicant's topography, the accuracy of other methods of measurement is deemed to be inadequate and a survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.

(5) To the extent that it shall be called to the attention of the beer board that it may have issued any permit to a location not qualified under the provisions of this section, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section. (Ord. #2010-2011-3, Oct. 2010)

8-119. When beer board may issue. The beer board shall issue no permit until the application therefor has been approved following a public hearing at regularly scheduled beer board meeting with reasonable public notice. (Ord. #2010-2011-3, Oct. 2010)

8-120. To be posted. Any permit issued under this chapter shall be posted in a conspicuous place on the premises of the permittee. (Ord. #2010-2011-3, Oct. 2010)

8-121. Not transferable. No permit issued by the beer board under the provisions of this chapter shall be transferable from one (1) person to another. (Ord. #2010-2011-3, Oct. 2010)

8-122. Grounds for revocation or suspension. (1) The beer board shall revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this chapter or any other ordinance, state law or regulation or federal law or regulation governing the operation of such establishments or when the permittee:

(a) Operates a disorderly place;

(b) Allows gambling on the premises;

(c) Allows fighting or boisterous or disorderly conduct on the premises;

(d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude;

(e) Allows minors to congregate about the premises after normal hours of business;

(f) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location;

(g) Has made a false statement of a material fact in any application or notice to the board;

(h) Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages;

(i) Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups;

(j) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages;

(k) Allows violation of any provision of this chapter to occur on the licensed premises;

(l) Allows violations of the rules and regulations of the health department; resulting in revocation or suspension of any permit issued by the health department;

(m) Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises;

(n) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or

(o) Allows any server under eighteen (18) years of age to serve any setups without being in full compliance with *Tennessee Code Annotated*, § 57-3-704.

(2) The beer board may also, in its discretion, revoke a permit for due cause not specified herein. (Ord. #2010-2011-3, Oct. 2010)

CHAPTER 2

BEER[1]

SECTION

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[1]State law reference

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

8-201. Beer board established. There is hereby established a board of three (3) members to be known as "The Beer Board of the City of Soddy-Daisy, Tennessee." (2007 Code, § 8-201)

8-202. Term of office; vacancies; chairman. All members of the beer board shall serve at the pleasure of the board of commissioners. In event of a vacancy, the board of commissioners shall fill the same. A chairman shall be elected by the board from among its members. All members of the beer board shall serve without compensation. (2007 Code, § 8-202)

8-203. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman; provided he gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (2007 Code, § 8-203)

8-204. Record of beer board proceedings to be kept. A record of the proceedings of all meetings of the beer board shall be kept. 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. (2007 Code, § 8-204)

8-205. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (2007 Code, § 8-205)

8-206. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (2007 Code, § 8-206)

8-207. "Beer" defined. The term "beer" as used in this chapter shall mean beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in *Tennessee Code Annotated*, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. (Ord. #2016-2017-7, Dec. 2016)

8-208. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars ($250.00). Said fee shall be payable to the City of Soddy-Daisy. 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. (2007 Code, § 8-208)

8-209. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars ($100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1 of each year to the City of Soddy-Daisy, Tennessee. At the time a new 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. (2007 Code, § 8-209, modified)

8-210. Applications for beer permits- - investigation; assistance by chief of police. The board shall make an investigation of each applicant for a permit to sell beer to determine the character of the applicant and to determine whether or not the applicant is a suitable person to be issued a license or permit and the location of a suitable place within the area authorized as places for the sale of beer. The board may call upon the chief of police to make any investigation and to furnish any information necessary with regard to any applicant. It shall be the duty of the chief of police to cooperate with the beer board in making investigations of applicants and their prospective locations. (2007 Code, § 8-210)

8-211. Granting of beer license. The beer board shall, in its discretion, either grant or refuse a permit or license. All applications for the renewal of a license shall be made and referred to the beer board for its consideration upon an original application. (2007 Code, § 8-211)

8-212. Investigations of permit or license holders charged with certain violations; action by beer board. When any holder of a license or permit for the sale of beer is charged with the violation of any of the laws of the state, this code or other ordinances of the city or for any reasons set out in section of this code, it shall be the duty of the beer board to make an investigation. In order that the beer board may make necessary investigations, it is hereby given authority to issue subpoena for witnesses to appear before it for the purpose of giving testimony. The chairman is authorized to administer the oath to witnesses. The beer board, after its investigation and in its discretion, may either revoke or suspend the license of any licensee. (2007 Code, § 8-212)

8-213. Notification of beer board when license is revoked. When a license for the sale of beer has been revoked, it shall be the duty of the city recorder to furnish the beer board with the name and location of the licensee. (2007 Code, § 8-213)

8-214. Violations to be reported to beer board; police, etc., to cooperate with board. It shall be the duty of the police department and inspectors to report to the beer board any violations of the laws of the state, this code or other ordinances, rules and regulations of the city by any licensee. All police officers and inspectors and the recorder shall cooperate with and furnish all information requested by the beer board. (2007 Code, § 8-214)

8-215. Distribution, sale, etc., lawful. It shall be lawful to distribute, sell, transport, store and possess beer, including ales or other malt liquors of alcoholic content being the definition appearing in *Tennessee Code Annotated,* § 57-5-101 in the city, subject to all the regulations, limitations, and restrictions provided by *Tennessee Code Annotated*, title 57, chapter 5, and subject to the provisions of this title. (2007 Code, § 8-215, modified)

8-216. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for on- and off-premises consumption. A single permit may be issued for on-premises and off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (2007 Code, § 8-216)

8-217. Consumption permits. Permits issued by the beer board shall consist of two (2) classes:

(1) On-premises permit. An on-premises permit shall be issued for the consumption of beer only on the premises.

(2) Off-premises permit. An off-premises permit shall be issued for the consumption of beer only off the premises. (2007 Code, § 8-217)

8-218. Sale of beer for both on-premises and off-premises consumption. A single permit may be issued to sell beer for both on-premises and off-premises consumption at the same location. (2007 Code, § 8-218)

8-219. Limitation on number of permits. There shall be no limit on the number of off-premises permits. There shall be no more than one (1) on-premises permit issued and outstanding at any time for any single location. (2007 Code, § 8-219)

8-220. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within two hundred feet (250') of any hospital, school, church, or other place of public gathering. Such distances shall be measured in a straight line from doorway entrance of the regular public ingress or egress of the building from which the beer will be sold, manufactured, or stored to the doorway entrance of the hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit has been issued to any business on that same location as of January 1, 1993. (2007 Code, § 8-220, as amended by Ord. #2021-2022-7, Dec. 2021)

8-221. 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. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (2007 Code, § 8-221)

8-222. Approval or rejection of application. The beer board shall consider each application filed, and shall grant or refuse the license and permit,

according to its best judgment, under all the facts and circumstances, and endorse its action on the application. The action of the board in granting or refusing a license and permit shall be final, except as it may be subject to review at law. (2007 Code, § 8-222)

8-223. Location of premises to be designated. The location of the premises at which the business of the licensee will be conducted shall be designated in the license, permit, and application therefor. (2007 Code, § 8-223)

8-224. When recorder may issue license. The city recorder shall issue no license until the application therefor has been approved by the beer board and has been instructed by the board to issue same. (2007 Code, § 8-224)

8-225. Restrictions on certain licenses. (1) Hotels. Licenses may be issued to hotels for sale and consumption on the premises in rooms where meals or lunches are served and in guests' rooms.

(2) Clubs and lodges. Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee, and which are organized and exist for purposes other than the sale of beverages under such licenses. (2007 Code, § 8-225)

8-226. Licenses to be displayed. The license issued under this chapter shall be posted in a conspicuous place on the premises of the licensee. (2007 Code, § 8-226)

8-227. Permit to be held by owner. A permit shall be valid:

(1) Only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner;

(2) Only for a single location except where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all of such businesses pursuant to the same permit, and a permit cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business; and

(3) Only for a business operating under the name identified in the permit application. (2007 Code, § 8-227)

8-228. Reports by police; hearings on violations. The chief of police and police officers shall notify the beer board of any violations of any of the provisions of this chapter by any person holding a license and permit, and shall

notify any licensee violating any of the provisions of this chapter or other law or ordinance relating thereto to appear before the beer board following any such violation to show cause why license and permit should not be revoked. At such meeting such licensee shall be entitled to a public hearing and to introduce evidence in his behalf. The burden shall be upon the licensee at such hearing to show that he has not been guilty of such violation or any other offense which would justify the revocation of the license and permit. (2007 Code, § 8-228)

8-229. Possession of federal license without city license. The possession by any person of any federal license to sell alcoholic beverages without the corresponding city license required shall be prima facie evidence in all cases that the holder of such federal license is selling beer in violation of the provisions of this chapter. (2007 Code, § 8-229)

8-230. Retailers to purchase from wholesalers licensed by city. It shall be unlawful for any person holding a license for the sale at retail of beer to purchase beer from anyone other than a wholesaler or distributor licensed to carry on business in the city. (2007 Code, § 8-230)

8-231. Return of permit after change in ownership. A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of business name. (2007 Code, § 8-231)

8-232. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any minor under eighteen (18) years of age in the sale of beer for on-premises consumption;

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

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

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

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

(6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than the definition appearing in *Tennessee Code Annotated*; or

(7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (2007 Code, § 8-232, modified)

8-233. Suspension and revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (2007 Code, § 8-233)

8-234. Civil penalty in lieu of revocation or suspension. (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the Tennessee Responsible Vendor Act of 2006, *Tennessee Code Annotated*, §§ 57-5-601, *et seq*.

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

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

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (2007 Code, § 8-234)

8-235. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (2007 Code, § 8-235)

8-236. Solicitations by home delivery services prohibited. Any person who is engaged in accepting orders and making deliveries of beer in the city shall be known and considered as operating a delivery service of beer, and it shall be unlawful for any person engaged in the business of delivery to solicit, either in person or by telephone, the sale or delivery of beer, or to make sales or deliveries except on calls or orders from customers. (2007 Code, § 8-236)

8-237. Permitted hours for sale of beer. Beer can be sold all hours of any day. (Ord. #2018-2019-9, May 2019)

8-238. Unauthorized use or consumption of beverages on-premises. No licensee whose license authorizes sale for consumption off the premises only shall sell for consumption on the premises. No licensee shall allow any liquors or other beverages of greater than the definition appearing in *Tennessee Code Annotated,* § 57-5-101 to be brought on his premises or consumed thereon, nor shall the possession or sale of liquor be permitted on such premises. (2007 Code, § 8-238, modified)

CHAPTER 3

PACKAGE LIQUOR REGULATIONS

SECTION

8-301. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by *Tennessee Code Annotated*, title 57, chapter 3. (Ord. #2014-2015-3, Dec. 2014)

8-302. Applicant to agree to comply with laws. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the state for sale of alcoholic beverages. (Ord. #2014-2015-3, Dec. 2014)

8-303. Applicant to appear before city commission; duty to give information. An applicant for a certificate of compliance shall be required to appear in person before the city commission for such reasonable examination as may be desired by the board. (Ord. #2014-2015-3, Dec. 2014)

8-304. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the city commission within thirty (30) days of the date each application was filed.

The city commission may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the commission. (Ord. #2014-2015-3, Dec. 2014)

8-305. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (Ord. #2014-2015-3, Dec. 2014)

8-306. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the town except at locations zoned for that purpose. No license or permit for retail package store shall be granted which authorizes the sale, storage or manufacture or, in the case of a license primarily for on-premises consumption of beverages within two hundred feet (250') of any hospital, school, church or other place of public gathering. Such distances shall be measured in a straight line from doorway entrance of the regular public ingress or egress of the building from which the alcohol will be sold to the doorway entrance of the hospital, school, church or other place of public gathering.

No liquor store within the City of Soddy-Daisy shall be closer than two (2) miles or ten thousand five hundred sixty feet (10,560') from any other liquor store within the city as measured by the most direct driving route along public roads. (Ord. #2014-2015-3, Dec. 2014, as amended by Ord. #2021-2022-7, Dec. 2021)

8-307. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on-premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

In addition, all liquor stores shall be a permanent type of construction. No liquor stores shall be located in a manufactured or other moveable or prefabricated type building. All liquor stores shall have night lights surrounding the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The minimum square footage of the interior of the liquor store shall be two thousand (2,000) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway or street to the interior of the liquor store by the way of large windows in the front, and to the extent practicable, to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, land use,

building and life safety regulations adopted by the city, unless specifically provided otherwise. (Ord. #2014-2015-3, Dec. 2014)

8-308. Sales for consumption on-premises. No alcoholic beverages shall be sold for consumption, or shall be consumed, on the premises of the retail seller. (Ord. #2014-2015-3, Dec. 2014)

8-309. Amusement devices and seating facilities prohibited in retail establishments. No pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (Ord. #2014-2015-3, Dec. 2014)

8-310. Consumption of alcoholic beverages on-premises. No alcoholic beverages shall be sold for consumption, or shall be consumed on the premises of the retail seller. (Ord. #2014-2015-3, Dec. 2014)

8-311. Inspection fee. The City of Soddy-Daisy hereby imposes an inspection fee authorized by *Tennessee Code Annotated*, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. There is hereby levied on each licensee an inspection fee of up to five percent (5%), with the exact amount of such percentage to be determined from time to time by the city commission, on the gross purchase price of all alcoholic beverages acquired by the licensee for retail sales from any wholesaler or any other source. Initially this fee shall be set at three percent (3%) and shall be increased to five percent (5%) on July 1, 2016. The licensee shall identify to the city all wholesalers and sources. (Ord. #2014-2015-4, Feb. 2015)

8-312. Violations and penalty. Any violation of this chapter is unlawful and shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. However, nothing herein shall be construed to prevent the city from exercising any criminal or civil remedies that it may have with respect to violations of this chapter. (Ord. #2014-2015-3, Dec. 2014)

CHAPTER 4

WINE SALES BY RETAIL FOOD STORES

SECTION

8-401. Wine sales by retail food stores authorized as provided by state law. To the extent authorized by *Tennessee Code Annotated*, § 57-3-801 or other applicable state law, it is lawful for retail food stores as defined by *Tennessee Code Annotated*, § 57-3-802(1) to sell wine, as defined by *Tennessee Code Annotated*, § 57-3-802(2) within the corporate limits of the City of Soddy-Daisy. (Ord. #2016-2017-6, Dec. 2016)

8-402. No location restrictions. There are no location restrictions applicable to sales by retail food stores. This exception does not abrogate the limitation set forth in *Tennessee Code Annotated*, § 57-3-806(e) or other applicable state law. (Ord. #2016-2017-6, Dec. 2016)

8-403. Inspections, records required and inspection fees.

(1) Levied. For the purpose of providing a means of regulating the sale of alcoholic beverages within the city and to provide means for enforcing the provisions of this chapter, there is hereby levied and imposed an inspection fee of five percent (5%) on all wine sold to retailers in this city. The fee shall be measured by the wholesale price of the wine sold by each wholesaler and shall be five percent (5%) of such wholesale price. The fee may be added by the wholesaler to invoices for alcoholic beverages sold to licensed retailers. The fees imposed under authority of this section shall be remitted to the finance director of the city, not later than the twentieth day of each month, for the preceding month.

(2) Reports. The finance director shall prepare and make available to each wholesaler and other source vending wine to licensees sufficient forms for the monthly report of inspection fees payable by such licensee making purchases from such wholesaler or other source. Such wholesaler shall timely complete and return the forms and the required information and inspection fees within the time specified above.

(3) Failure to pay fees. The failure to pay the inspection fees and to make the required reports accurately and within the time required by this chapter shall, at the sole direction of the city manager, be cause for suspension of the offending licensee's privilege license for as much as thirty (30) days and, at the sole discretion of the city commission, be cause for revocation of such privilege license. Each such action may be taken by giving written notice thereof

to the licensee, no hearing with respect to such an offense being required. If a licensee has his license revoked, suspended or otherwise removed and owes the city inspection fees at the time of such suspension, revocation, or removal, the city attorney may timely file the necessary action in a court of appropriate jurisdiction for recovery of such inspection fees. Further, each licensee who fails to pay or have paid on his or her behalf the inspection fees imposed hereunder shall be liable to the city for a penalty on the delinquent amount due in an amount of ten percent (10%) of the inspection fee. (Ord. #2016-2017-6, Dec. 2016)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.[2]

SECTION

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

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

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[1]Municipal code references
Building, plumbing, wiring and residential regulations: title 12.
Junkyards: title 13.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Zoning: title 14.

[2]Municipal code references
Privilege taxes: title 5.

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

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

(a) Has a current exemption certificate from the Internal Revenue Service issued under § 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" organization for charitable or religious organizations; or

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

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

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

(6) "Transient vendor"[1] means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. "Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously 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. (2007 Code, § 9-101)

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (2007 Code, § 9-102)

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. (2007 Code, § 9-103)

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city

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[1]State law references

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

The definition of "transient vendors" is taken from *Tennessee Code Annotated*, § 67-4-709(a)(19). Note also that *Tennessee Code Annotated*, § 67-4-709(a) prescribes that transient vendors shall pay a tax of fifty dollars ($50.00) for each fourteen (14) day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in *Tennessee Code Annotated*, § 67-4-709(b).

manager by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

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

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

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

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

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

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

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

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit. (2007 Code, § 9-104)

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

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

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

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

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

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (2007 Code, § 9-105)

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (2007 Code, § 9-106)

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (2007 Code, § 9-107)

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

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of commissioners. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of commissioners, after notice and hearing, for the same causes set out in subsection (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city manager in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (2007 Code, § 9-108)

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

subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (2007 Code, § 9-109)

9-110. Violations and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (2007 Code, § 9-110)

CHAPTER 2

MASSAGE PARLORS AND TECHNICIANS

SECTION

9-201. Definitions. For purposes of this chapter the following phrases and words shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning:

(1) "Massage." The administering by any person by any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, and/or the rubbing, stroking, kneading, pounding, tapping, or otherwise manipulating a part of the whole human body or the muscles or joints thereof, by any physical or mechanical means. "Massage" shall also mean the giving, receiving, or administering of a bath to any person or the application of body paint or other colorant to any person.

(2) "Massage parlors." Any premises, place of business, or membership club where there is conducted the business or activity of furnishing, providing or giving for a fee, or any other form of consideration, a massage, bath, body painting, or similar massage service or procedure. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a duly licensed physician, surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barber shop or beauty salon

operated by a duly licensed barber or cosmetologist, so long as any massage administered therein is limited to the head and neck.

(3) "Massage technician." Any person who administers a massage to another at a massage parlor. (2007 Code, § 9-201)

9-202. Permit required for a massage parlor; public health card required for massage technician. (1) On and after the effective date of this chapter, it shall be unlawful for any person to establish, maintain or operate a massage parlor in the city without a valid permit issued pursuant to this chapter or any prior ordinance.

(2) On and after the effective date of this chapter, it shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid public health card and permit issued pursuant to this chapter or any prior ordinance. (2007 Code, § 9-202)

9-203. Examination of massage technicians; issuance of public health card. All persons who desire to perform the services of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest x-ray which is to be made and interpreted by a trained radiologist, and shall furnish a certificate based upon and issued within thirty (30) days of such examination by the Chattanooga-Hamilton County Health Department and stating that the person examined is either free from any contagious or communicable disease, or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the city manager or his designee the certificate required herein within five (5) days of the commencement of their employment and at least once every six (6) months thereafter.

When there is cause to believe that the massage technician is capable of communicating any contagious disease to others, the city manager or his designee may at any time require an immediate physical examination of any such person.

The employer or any such person shall require all such persons to undergo the examination and obtain the certificate provided by this section, shall register at the place of employment the name and date of employment of each employee, and shall have the health cards and registration of all employees available for the chief of police, or the city manager, or their duly authorized representative at all reasonable times. (2007 Code, § 9-203)

9-204. Massage technician permit application; renewal; fees. Any person desiring a permit to perform the services of massage technician at a massage parlor in the city shall make application in triplicate form to the city manager or his designee, who shall immediately refer one (1) copy of same to the

chief of police. Each massage technician permit application shall be accompanied by an investigation fee of twenty-five dollars ($25.00). Each such application shall state under oath the name, address, telephone number, last previous address, date of birth, place of birth, height, weight, current and last previous employment of the applicant. In addition, such application shall include a sworn statement as to whether or not the applicant has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in any other jurisdiction.

The application shall state thereon that: "It is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute grounds for denial of any application or revocation of a permit."

Each applicant shall have his fingerprints taken, which fingerprints shall constitute part of the application.

A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall be not less than two by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filed with the application.

Each massage technician permit shall expire one (1) year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of ten dollars ($10.00). (2007 Code, § 9-204)

9-205. <u>Investigation of applicant for massage technician permit; grounds for denial of application</u>. Upon receipt of the application and fee as provided for in the preceding section, the city manager or his designee shall request the chief of police to make or cause to be made a thorough investigation of the criminal record of the applicant. The result of this investigation shall be submitted to the city manager or his designee within thirty (30) days of the request.

The city manager or his designee shall deny any application for a massage technician permit under this chapter after notice and hearing if the city manager or his designee finds that the applicant has within a period of two (2) years prior to his application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall so be grounds for denial of this application. Notice of the hearing before the city manager or his designee for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2007 Code, § 9-205)

9-206. Revocation of massage technician permit; grounds; notice to permittee. Any massage technician permit granted under this chapter shall be revoked by the city manager or his designee after notice and hearing if the permittee has within a period of two (2) years been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offense, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or chapter in this or any other jurisdiction. Discovery of a false statement on the application shall also be grounds for revocation of the permit. Notice of the hearing before the city manager or his designee for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2007 Code, § 9-206)

9-207. Massage parlor permit application; renewals; fees. Any person desiring a massage parlor permit to establish, maintain, or operate a massage parlor in the city shall make application to the city manager or his designee. Each massage parlor permit application shall be accompanied by an investigation fee of fifty dollars ($50.00), payable to the city. Each massage parlor permit shall expire one (1) year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of twenty-five dollars ($25.00). Each such application shall contain the name, address, telephone number of the place where the applicant proposes to operate, maintain or establish a massage parlor in the city.

In addition, such application shall include a sworn statement as to whether or not the applicant (if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director, or manager thereof, or any shareholder) has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or chapter in any other jurisdiction.

The application shall state thereon that: "It is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit."

Each applicant shall have his fingerprints taken, which fingerprints shall constitute part of the application.

A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall be not less than two by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filed with the application. (2007 Code, § 9-207)

9-208. Investigation of applicant for massage parlor permit; grounds for denial of application. Upon receipt of the application and fee as provided for in the preceding section, the city manager or his designee shall

request the chief of police to make or cause to be made a thorough investigation of the criminal record of the applicant (if the applicant is a partnership or association, all partners or members thereof, or if the applicant is a corporation, all officers, directors, and managers thereof and all shareholders). The result of this investigation shall be submitted to the city manager or his designee within thirty (30) days of the request.

The city manager or his designee shall deny any application for a massage parlor permit under this chapter after notice and hearing if the city manager or his designee finds that the applicant (if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director, or manager thereof or shareholder) has within a period of two (2) years prior to application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall also be grounds for denial of this application. Notice of the hearing before the city manager or his designee for denial of this application shall be given in writing setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2007 Code, § 9-208)

9-209. Investigation of premises and issuance of massage parlor permit. The city manager or his designee, before issuing any massage parlor permit, shall cause an investigation to be made of the premises named and described in the application for a massage parlor permit under this chapter for the purpose of determining whether the massage parlor complies with the provision of this chapter, the zoning ordinances, all building, fire, plumbing and electrical codes and, for this purpose, a copy of the application shall immediately be referred to the building official to make or cause to be made a thorough investigation of the premises and the result of this investigation and whether said premises comply with the zoning, building, fire, plumbing and electrical codes, shall be submitted to the city manager or his designee within thirty (30) days of the request. (2007 Code, § 9-209)

9-210. Revocation of massage parlor permit; grounds; notice to permittee. Any massage parlor permit granted under this chapter shall be removed by the city manager or his designee after notice and hearing if the permittee (if the permittee is a partnership or association, any partner or member thereof, or if the permittee is a corporation, any officer, director or manager thereof or shareholder) has within a period of two (2) years been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or chapter in

this or any other jurisdiction. Discovery by the city manager or his designee of a false statement on the application shall also be grounds for revocation of the permit. Notice of the hearing before the city manager or his designee for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2007 Code, § 9-210)

9-211. Appeals. Any applicant or permittee aggrieved by the actions of the city manager or his designee in the denial of an application for massage parlor permit or massage technician permit, or by the decision of the city manager or his designee with reference to the revocation or suspension of a massage establishment permit or massage technician permit, shall have the right of appeal to the board of commissioners. Such appeal shall be taken by filing with the city manager, within ten (10) days after the action complained of has been taken, a written statement setting forth fully the grounds for appeal. The city manager shall forthwith notify the board of commissioners, which shall schedule a public hearing and shall give notice of such hearing to the appellant. The board of commissioners may reverse or affirm, or may modify any decision of the city manager or his designee, and may make such decisions or impose such conditions as the facts may warrant; and it may order that a permit be granted, suspended or revoked. The decision and order of the board of commissioners on such appeal shall be final and conclusive. (2007 Code, § 9-211)

9-212. Right of entry. The chief of police or the city manager or his designee or their duly authorized representatives are hereby authorized to enter, examine and survey any premises in the city for which a massage parlor permit has been issued pursuant to this chapter to enforce the provisions of this chapter, and for no other purpose. Should the authority to inspect premises be delegated to another person, such person shall be provided with written delegation of authority to be shown to the permittee upon request at the time of inspection. If such inspection reveals conditions which, in the opinion of the inspector, warrants a more thorough inspection by the building official, the Chattanooga-Hamilton County Health Department, the Bureau of Fire Prevention, or similar person or agency charged with responsibility for the enforcement of particular health and safety ordinances or laws of the City of Soddy-Daisy, or the State of Tennessee, he shall report such conditions to such person or agency and request that said premises be examined and any findings be reported to the chief of police and the city manager or his designee. This section shall not be deemed to restrict or to limit the right of entry otherwise vested in any law enforcement officers or other employees of the City of Soddy-Daisy, or the State of Tennessee, charged with the enforcement of health

and safety or criminal laws, wherein such right of entry is vested by other ordinances or laws. (2007 Code, § 9-212)

9-213. Minimum standards for massage parlors. No massage parlor shall be operated, established or maintained in the city that does not comply with the following minimum standards.

(1) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials shall be disinfected after use on each patron.

(2) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(3) Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

(4) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected.

(5) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(6) Adequate bathing, dressing, locker and toilet facilities shall be provided for the patrons to be served at any given time. Separate bathing, dressing, locker and toilet facilities shall be provided for male and females patrons.

(7) All walls, ceilings, floors, pools, showers, bathtubs, stream-rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

(8) The premises shall be equipped with a service sink for custodial services.

(9) Eating in the massage work areas shall not be permitted.

(10) Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas.

(11) No massage parlor shall employ a massage technician who does not comply with the provisions of this chapter. (2007 Code, § 9-213)

9-214. Individual health requirements for massage technicians.

No massage technician shall administer massage at a massage parlor who does not comply with the following individual health requirements.

(1) No massage technician shall administer a massage if such massage technician knows or should know that he or she is not free of any contagious or communicable disease.

(2) No massage technician shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption; provided that a physician duly licensed by the State of Tennessee may certify that such person may be safely massaged prescribing the conditions thereof.

(3) Each massage technician shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron. (2007 Code, § 9-214)

9-215. Suspension of permit; reinstatement. If the chief of police or the city manager, or their duly authorized representatives, find that a massage parlor or a massage technician is not in compliance with the requirements set forth in this chapter, or the permittee has refused the chief of police, the city manager, or their duly authorized representatives, the right to enter the premises to enforce the provisions of this chapter, upon report to the city manager or his designee he may enter an order for the immediate suspension of the massage parlor permit or massage technician permit, as the case may be, until such time as he finds that the reason for such suspension no longer exists. A copy of the order shall be sent to the massage parlor and/or the massage technician at his or her place of business by certified mail, which order shall set forth the reasons for the suspension. No person shall operate a massage parlor or perform the services of a massage technician at a massage parlor when subject to an order of suspension. The city manager or his designee shall reinstate a suspended permit when he has been satisfied that the massage parlor or massage technician complies with the applicable provisions of this chapter. (2007 Code, § 9-215)

9-216. Display of permit. Every person to whom a massage permit shall have been granted shall display said massage parlor permit in a conspicuous place in the massage parlor or establishment so that it may be readily seen by persons entering the premises.

Every person to whom a massage technician permit shall have been granted shall, while in massage parlor, carry on his or her person or display in a conspicuous place in the massage parlor or establishment the massage technician permit. (2007 Code, § 9-216)

9-217. Massage parlors- -unlawful acts. (1) It shall be unlawful for any person in a massage parlor to place his or her hands upon or to touch with any part of his or her body, or to fondle in any manner, or to massage, a sexual or genital part of any other person.

(2) It shall be unlawful for any person in a massage parlor to expose his or her sexual or genital parts, or any portion thereof, to any other person of the opposite sex.

(3) It shall be unlawful for any person while in the presence of any other person of the opposite sex in a massage parlor to fail to conceal with a fully opaque covering the sexual or genital parts of his or her body.

(4) It shall be unlawful for any person owning, operating or managing a massage parlor knowingly to cause, allow, or permit in or about such parlor, any agent, employee, or any other person under his control or supervision, to perform such acts prohibited in this chapter.

(5) Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breast of a female.

(6) Every person owning or managing a massage parlor shall post a copy of this chapter in a conspicuous place in the massage parlor so that it may be readily seen by persons entering the premises.

(7) It shall be unlawful for any massage parlor to provide massage services at any time between the hours of 9:00 P.M. and 7:00 A.M. and on Sundays. However, it shall be lawful for such establishments to remain open for the transaction of other lawful business.

(8) The administering of massages shall not be conducted in private rooms or areas, but shall be conducted in separate general areas for males and females or if the same general area is used by both male and female customers, then different times for such separate use shall be designated and posted. (2007 Code, § 9-217)

9-218. Violations and penalty. Any person violating any of the provisions of this chapter, upon conviction by the court, shall be punished according to the general penalty provisions of this municipal code of ordinances. (2007 Code, § 9-218)

CHAPTER 3

CABLE TELEVISION

SECTION

9-301. To be furnished under franchise. Cable television shall be furnished to the City of Soddy-Daisy and its inhabitants under franchise granted to Comcast Cable, by the Board of Commissioners of the City of Soddy-Daisy, Tennessee. The rights, powers, duties and obligations of the City of Soddy-Daisy and its inhabitants are clearly stated in the franchise agreement executed by and which shall be binding upon the parties concerned.[1] (2007 Code, § 9-301)

[1]Cable television franchise agreements are of record in the office of the city recorder.

CHAPTER 4

ADULT-ORIENTED ESTABLISHMENTS

SECTION

9-401. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult bookstore" means an establishment receiving at least twenty percent (20%) of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVDs, films and other electronic media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below. "Adult bookstore" shall not include video stores whose primary business is the rental and sale of videos which are not distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

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

private dancers, strippers, male or female impersonators, or similar entertainers.

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

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

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

(6) "Adult-oriented establishment" means and includes, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(7) "Board of commissioners" means the Board of Commissioners of the City of Soddy-Daisy, Tennessee.

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

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

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

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

(11) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks; and

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

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

(12) "Specified sexual activities" means:

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

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

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (2007 Code, § 9-401)

9-402. <u>License required</u>. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Soddy-Daisy without first obtaining a license to operate issued by the City of Soddy-Daisy.

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

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

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

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

(6) No license may be issued for any location unless the premises are lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (2007 Code, § 9-402)

9-403. <u>Application for license</u>. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the City of Soddy-Daisy. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

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

(a) Name and addresses, including all aliases;

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

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

(d) The applicants' height, weight, color of eyes and hair;

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

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

(g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations;

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant;

(i) The address of the adult-oriented establishment to be operated by the applicant(s);

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

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

(l) The length of time each applicant has been a resident of the City of Soddy-Daisy, or its environs, immediately preceding the date of the application;

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity;

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

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

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

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

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

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation

required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief. (2007 Code, § 9-403)

9-404. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

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

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

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-403 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-403 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

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

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

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

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

(2) No license shall be issued unless the Soddy-Daisy Police Department has investigated the applicant's qualifications to be licensed. The

results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application. (2007 Code, § 9-404)

9-405. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief. (2007 Code, § 9-405)

9-406. Application for permit. (1) Any person desiring to secure a permit shall make application to the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

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

(a) Name and address, including all aliases;

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

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

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

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

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

(g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations;

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

(i) The length of time the applicant has been a resident of the City of Soddy-Daisy, or its environs, immediately preceding the date of the application; and

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Soddy-Daisy Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional

thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

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

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief. (2007 Code, § 9-406)

9-407. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

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

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

(2) No permit shall be issued until the Soddy-Daisy Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application. (2007 Code, § 9-407)

9-408. Fees. (1) A license fee of five hundred dollars ($500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars ($100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (2007 Code, § 9-408)

9-409. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any

member of the Soddy-Daisy Police Department, or any person designated by the board of commissioners. (2007 Code, § 9-409)

9-410. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of commissioners.

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

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

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

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

(6) If the Soddy-Daisy Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief. (2007 Code, § 9-410)

9-411. Revocation of license or permit. (1) The police chief shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

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

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

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

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

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

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice

of the charges against him or her and the opportunity for a public hearing before the board of commissioners, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (2007 Code, § 9-411)

9-412. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Soddy-Daisy Police Department, the Hamilton County Sheriff's Department, or such other persons as the board of commissioners may designate. (2007 Code, § 9-412)

9-413. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, Social Security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of commissioners. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

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

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

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of

this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Soddy-Daisy Police Department at all reasonable times.

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

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

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

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

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

> This Adult-Oriented Establishment is Regulated by the City of Soddy-Daisy Municipal Code. Entertainers are:
>
> (a) Not permitted to engage in any type of sexual conduct;
>
> (b) Not permitted to expose their sex organs; and
>
> (c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (2007 Code, § 9-413)

9-414. <u>Prohibitions and unlawful sexual acts</u>. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

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

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (2007 Code, § 9-414)

9-415. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause, or provision of this chapter. (2007 Code, § 9-416)

9-416. Violations and penalty. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars ($50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (2007 Code, § 9-415)

TITLE 10

ANIMAL CONTROL[1]

CHAPTER

CHAPTER 1

ANIMALS AND FOWLS IN GENERAL

SECTION

10-101. Livestock at large prohibited. It shall be unlawful for any person owning or controlling any cattle, horses, mules, sheep, goats or hogs to allow such animals to run at large in the streets or on any unenclosed lots in the city. (2007 Code, § 10-101)

10-102. Dangerous, mischievous animals at large prohibited. It shall be unlawful for any person owning or controlling a dangerous or mischievous animal to permit such animal to run at large in the city. (2007 Code, § 10-102)

10-103. Fowl running at large. It shall be unlawful for the owner of any chicken or other fowl to permit it to run at large or upon the premises of any other person in the city. (2007 Code, § 10-103)

10-104. Keeping or possessing swine or goats. (1) It shall be unlawful for any person to keep or possess swine within the city; provided

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[1]Wherever this title mentions dogs it pertains to dog and cats.

however, that where any person owns or has leased a tract of land containing two (2) contiguous acres or more within the city, such person may keep or possess swine on such property, consistent with any city ordinances prohibiting public nuisances.

(2) Effective June 17, 2005, it shall be unlawful for any person to keep or possess goats within the city; provided however, that where any person owns, has leased or has the permission of a contiguous landowner so that a contiguous one (1) acre of land within the city is provided thereby, such person may keep or possess goats on such property, consistent with any city ordinances prohibiting public nuisances.

Effective June 17, 2008, it shall be unlawful for any person to keep or possess goats within the city; provided however, that where any person owns, has leased or has the permission of a contiguous landowner so that a contiguous one (1) acre of land within the city is provided thereby, such person may keep or possess no more than sixteen (16) goats on such property. If a person keeps goats on a tract of land he owns or has leased in the city containing two (2) contiguous acres or more, the limit established by this paragraph is inapplicable, consistent with any city ordinances prohibiting public nuisances.

Effective June 17, 2011, it shall be unlawful for any person to keep or possess goats within the city; provided however, that where any person owns, has leased or has the permission of a contiguous landowner so that a contiguous one (1) acre of land within the city is provided thereby, such person may keep or possess no more than eight (8) goats on such property. If a person keeps goats on a tract of land he owns or has leased in the city containing two (2) contiguous acres or more, the limit established by this paragraph is inapplicable, consistent with any city ordinances prohibiting public nuisances.

Effective June 17, 2014, it shall be unlawful for any person to keep or possess goats within the city; provided however, that where any person owns or has leased a tract of land containing two (2) contiguous acres or more within the city, such person may keep or possess goats on such property, consistent with any city ordinances prohibiting public nuisances.

(3) The land in question for the application of subsections (1) or (2) above must otherwise be appropriately zoned for the raising of livestock. (2007 Code, § 10-104)

10-105. Unhealthy and offensive conditions. Any person owning or controlling any animal or fowl shall keep his property free of any unhealthy or unsanitary conditions or any offensive odors. (2007 Code, § 10-105)

10-106. Noisy animals and fowl prohibited. No person shall own, keep or harbor any animal or fowl which by loud and frequent noise annoys or disturbs the peace of and quiet of any neighborhood. (2007 Code, § 10-106)

10-107. Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (2007 Code, § 10-107)

10-108. 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 commissioners. 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. 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 commissioners.

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 commissioners, to cover the costs of impoundment and maintenance. (2007 Code, § 10-108)

10-109. Enforcement. The provisions of this title shall be enforced by animal wardens to be appointed by the city manager, or by police officers of the city, or by the Humane Society of Chattanooga, Hamilton County, Tennessee, under contract with the City of Soddy-Daisy, or by any other agency with which the Board of Commissioners of the City of Soddy-Daisy may contract for the enforcement of the provisions of this chapter. Said agents or such agencies shall have full power to serve summons, citations, and warrants for violations of the provisions of title 10 or to make arrests for offenses in violation of the provisions of this title. (2007 Code, § 10-110)

10-110. Violations and penalty. (1) Any person, firm or corporation who shall violate any of the provisions of this chapter shall be punished according to the general penalty provisions of this municipal code of ordinances.

(2) It shall be an affirmative defense to a citation under § 10-104 if the owner/occupier of any real property upon which a violation is deemed to occur establishes by satisfactory evidence that each of the animals at issue have been located on the property for a continuous period of ten (10) years. The defense shall not be deemed established as to each animal which cannot be shown to have been located on the property for such period. (2007 Code, § 10-109, as amended by Ord. #2011-2012-9, March 2012)

CHAPTER 2

DOGS AND CATS[1]

SECTION

10-201. Enforcement of chapter; obstructing enforcement. The Hamilton County Humane Society (hereinafter referred to as poundkeeper), the Soddy-Daisy Police Department, codes enforcement official, the city manager or his designee shall enforce the provisions of this chapter and shall have the power to make arrests for the violation thereof. It shall be unlawful for any person to hinder, molest or interfere with the poundkeeper in the performance of his duties hereunder. (2007 Code, § 10-201)

10-202. Registration required; exception. The owner of every dog over the age of three (3) months in the city shall register such dog annually with the poundkeeper. The poundkeeper shall state upon each certificate for registration or renewal thereof the sex, breed, age, color and name of the dog,

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[1]Wherever this title mentions dogs it pertains to dog and cats.

together with its markings, if any, the name and address of the owner, and the date of registration. Such registration shall expire one (1) year from the date of issue. After the first day of May each year owners of dogs who have failed to register such animals shall be deemed delinquent.

The provisions of this section shall not apply to nonresidents of the city who are traveling through the city or temporarily sojourning therein for a period of less than thirty (30) days, nor to persons bringing dogs into the city exclusively for show or exhibition purposes. (2007 Code, § 10-202)

10-203. Who deemed owner. If any dog is found on the premises of any person for a period of ten (10) days or more, this shall be prima facie evidence that such dog belongs to the occupant of such premises. Any person keeping or harboring a dog for ten (10) consecutive days shall, for the purposes of this chapter, be declared to be the owner thereof and liable for violations of this chapter. (2007 Code, § 10-203)

10-204. License tag. The poundkeeper or the City of Soddy-Daisy shall issue a metal license tag for each dog registered as provided herein, marked "Registered, 20__, City of Soddy-Daisy, No. _____." Such tag shall be fastened to the dog's collar and worn by the dog when off the premises of its owner or custodian. It shall be unlawful for any person to use a tag on a dog for which such tag was not issued. (2007 Code, § 10-204)

10-205. Registration fees. The owner of each dog registered shall pay to the poundkeeper a registration fee of five dollars ($5.00), except that no registration fee shall exceed twenty-five dollars ($25.00) per year. (2007 Code, § 10-205)

10-206. Running at large. It shall be unlawful for any person to allow any dog belonging to him or under his control or habitually found on premises occupied by him or immediately under his control to go upon the premises of another, or upon any public street or sidewalk or other public property in the city, unless such dog is attended by the owner or his representative or under the control as provided herein, such dog shall not be more than fifty feet (50') away from the owner or representative and immediately responsive to his call. All dogs shall be on a leash whenever in a city park or on other city maintained recreational property and no dogs shall be allowed at any public gathering, which is defined for the purpose of this section as "an assembly of one hundred (100) or more persons on public property." Any dog found running at large in violation of this section and any dog required to be registered found at large unregistered, whether or not in violation of this section, is declared to be a nuisance and liable to seizure and disposal as provided in this chapter. (2007 Code, § 10-206, as amended by Ord. #2011-2012-2, Oct. 2011)

10-207. Taking possession of, harboring dogs at large. It shall be unlawful for any person in the city to harbor or keep in his possession or under his control any dog, whether or not tagged and registered, found running at large, except for the purpose of notifying the poundkeeper or the owner and holding such dog until the poundkeeper or owner demands it. Any person taking possession of any dog shall, within twenty-four (24) hours thereafter, notify the poundkeeper or owner of his action and advise him where such dog may be found. (2007 Code, § 10-207)

10-208. Vaccination required. Any person who owns, keeps or harbors a dog or cat within the city shall have such dog or cat properly vaccinated or immunized against rabies, and shall, each year, have such dog or cat revaccinated. Any person who obtains an unvaccinated dog or cat shall at once have such dog or cat properly vaccinated against rabies and have such vaccination repeated yearly; provided that, dogs or cats need not be vaccinated before reaching the age of three (3) months; provided, further, that the provisions of this section shall not apply to nonresidents of the city traveling through or temporarily sojourning in the city for a period of not more than thirty (30) days, nor to persons bringing dogs or cats to the city exclusively for show or exhibition purposes; provided, further, that the owner of such dogs or cats shall keep them confined.

No person shall bring a dog or cat into the city for sale, exchange or giving away unless such dog or cat has been vaccinated by a veterinarian of the state in which the owner lives or by some person authorized to make vaccinations and the owner of such dog or cat has in his possession a certificate of the person making the vaccination or inoculation; unless such dog or cat is kept confined or on a leash. (2007 Code, § 10-208, modified)

10-209. Vaccination prerequisite to license. No dog license required by this chapter shall be issued for any dog or cat unless the owner thereof furnishes a valid certificate that such dog or cat has been vaccinated or immunized against rabies within the previous twelve (12) months. (2007 Code, § 10-209, modified)

10-210. Vaccination records required; tags. Any person who vaccinates or revaccinates a dog or cat against rabies shall keep a record of such vaccination or revaccination, which record shall be subject to inspection by the director of health or his representatives, and shall provide the owner of the dog or cat with an approved tag, which shall have thereon, indelible or engraved, the year of vaccination and a number which shall correspond with the number on the record kept by the person vaccinating or revaccinating such dog or cat. Such tag shall be securely fastened to the collar worn by the dog or cat. (2007 Code, § 10-210, modified)

10-211. Impounding, destruction of violating dogs authorized. The poundkeeper shall take up and impound any dog found running at large in violation of this chapter; provided that, if any dog so found is sick, injured or of a vicious nature, the poundkeeper may humanely destroy such dog immediately. If, in the attempt to seize any dog, it becomes impossible to secure it with the hands, the poundkeeper, if convinced that the seizure of the dog is necessary to the public welfare and safety, may destroy it by shooting it; provided he is close enough to the animal to kill it humanely and so far removed from any bystander that no human life may be imperiled by the act. (2007 Code, § 10-211)

10-212. Care while in custody. The poundkeeper shall provide clean, comfortable and sanitary quarters for all dogs, keeping males and females and vicious dogs in separate stalls, and shall provide a liberal allowance of wholesome food and fresh, clean water and clean bedding. (2007 Code, § 10-212)

10-213. Owner of registered dog to be notified of impounding. If any dog or cat is seized and as provided in this chapter is registered, the poundkeeper shall give notice by telephone or by registered United States Mail to the address of the owner given on the registration record, within forty-eight (48) hours after the seizure of such dog or cat. (2007 Code, § 10-213)

10-214. Redemption of impounded dogs by owner; fees. The owner of a registered dog or cat may claim and redeem it by paying the poundkeeper an impoundment fee as established. The owner of an unregistered dog or cat may claim and redeem it upon payment of the registration fee required by § 10-205 of this code and the impoundment fee. (2007 Code, § 10-214)

10-215. Release to persons not owners. An unclaimed dog may be redeemed by a person other than the owner thereof upon payment of the registration fee provided in § 10-205 of this chapter, if such dog is unregistered, and the impoundment fee and board for each day of detention as provided; provided that, such person shall furnish two (2) satisfactory references and sign a written agreement that the dog will be cared for humanely and returned to the pound if the poundkeeper demands. Such person shall also agree that in the event the owner of such dog claims it within a period of thirty (30) days, upon demand of the poundkeeper and the payment by the owner to the poundkeeper for the use and benefit of such person and board for the period that such person has cared for the dog at one dollar ($1.00) per day, such dog will be returned to the poundkeeper, who shall return it to the owner. Dogs shall not be released to persons other than their owners for any other purpose than to serve as pets or watchdogs. (2007 Code, § 10-215)

10-216. Disposition of unclaimed dogs. Any registered dog impounded shall be kept for a period of three (3) days after notice to the owner, and if not redeemed within such period may be humanely destroyed or otherwise disposed of. Any unregistered dog impounded shall be kept for three (3) days and if not claimed or redeemed shall be humanely destroyed or otherwise dispose of. (2007 Code, § 10-216)

10-217. Detention where rabies suspected. Every dog which has bitten humans or has been exposed to rabies or which is suspected of having rabies shall be impounded for a period of ten (10) days or more by the poundkeeper, or, at the option of the owner of such dog, shall be detained in a reputable veterinary hospital on condition that such owner shall make arrangements with such veterinary hospital and shall be liable for the payment of the charges while such dog is confined therein. During such confinement the dog shall be under the observation and supervision of the director of health, and it shall be released or humanely destroyed by the poundkeeper after the termination of the observation period according to instructions from the director of health. The director may order the poundkeeper to destroy such dog at any time during the period of observation if evidence is such as to convince the director that the dog has rabies. During the period of observation, the owner of such dog shall be liable for board fees, as provided in § 10-214 of this chapter, if such dog is confined at the pound. (2007 Code, § 10-217)

10-218. Disposition of fees. All fees collected under this chapter shall be used for the enforcement of its provisions. (2007 Code, § 10-218)

10-219. Female dogs. Every owner of a female dog in season is required to confine the same in such manner as not to attract other dogs for twenty-four (24) days during the time she is in season. (2007 Code, § 10-222)

10-220. Destruction of unfit animals. Every animal in the city which is unfit, by reason of its physical condition, for the purposes for which such animals are usually employed or used, when there is no reasonable probability of its ever becoming fit for such purposes, shall be deemed to be a nuisance and shall be deprived of its life by the owner or lawful possessor of such animal within twelve (12) hours after being notified by a police officer or officers of any incorporated society for the prevention of cruelty to animals to kill the same. When any such owner or possessor fails to comply with such an order, upon his conviction, the judgment of the court, in addition to imposing any other penalty provided by law, shall order a police officer or officer of an incorporated society for the prevention of cruelty to animals immediately to kill such animal. (2007 Code, § 10-223)

10-221. Powers of humane societies. Any officer, agent or member of any society incorporated for the prevention of cruelty to animals may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence, and it shall be unlawful for any person to interfere with or obstruct any such officer, agent or member in the discharge of his duty. The agents of any such society, upon appointment by the president thereof, may make arrests and bring before the city judge persons found violating the provisions of this chapter. (2007 Code, § 10-224)

10-222. Disposition of vehicles used or loaded in violation of chapter. When any person is taken into custody by an officer authorized so to do for transporting any animal in a vehicle or other conveyance, or overloading a vehicle drawn by an animal, in a cruel or inhumane manner, such officer may take charge of such vehicle or other conveyance and its contents and deposit the same in a safe place of custody, or deliver the same into the possession of the chief of police, who shall thereupon assume the custody thereof. Any such officer may, in lieu of arresting the person in charge of a vehicle overloaded as provided herein, order him to remove therefrom at once so much of the weight as may in his judgment be necessary to relieve the overburdened animal attached thereto. (2007 Code, § 10-225)

10-223. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

CHAPTER 3

MUNICIPAL DOG PARK

SECTION

10-301. Dog parks. There is hereby established within the City of Soddy-Daisy a dog park for the purpose of allowing the off-leash exercise of dogs; provided that such dog is under the control of its owner or an attendant who is competent and knowledgeable relative to the behavior of said dog(s). (Ord. #2010-2011-4, Dec. 2010)

10-302. Definitions. (1) "Attendant." A person eighteen (18) years or older who brings a dog to the dog park. Such person is expected to be competent and knowledgeable relative to the behavior of, and have control over, said dog(s) at all times while at or inside the facility.

(2) "Dog park." An enclosed fence facility designated by the City of Soddy-Daisy for the purpose of allowing dogs, under the control of their owner or attendant, to exercise and socialize off-leash.

(3) "Owner." Any person, partnership, or corporation owning, keeping or harboring one (1) or more dogs. A dog shall be deemed to be harbored if it is fed or sheltered for seven (7) consecutive days or more. An "owner" is deemed an attendant for the purposes of this chapter.

(4) "Vicious dog." The definition of a "vicious dog," as used in this chapter, shall be:

(a) Any dog with a known history of attacks to people or other domestic animals which, when unleashed in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack, or which behaves in a manner that (in the opinion an investigation of the animal control officer and/or police officer) a reasonable person would believe poses a serious and unjustified imminent threat of physical injury or death to a person or companion animal.

(b) Any dog owned or harbored primarily or in the past for the purpose of dog fighting or any dog trained for dog fighting.

(c) Exceptions. Notwithstanding anything herein to the contrary, no dog shall be considered a vicious dog:

(i) If a dog has bitten or attacked a person who was committing criminal trespass or other tort upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime;

(ii) If another animal or if a child was teasing, tormenting, abusing or assaulting the dog;

(iii) If a domestic animal was injured while the dog was working as a hunting dog, herding dog or predator control dog on the property of or under the control of its owner, and the injury was to a species or type of domestic animal appropriate to the work of the dog;

(iv) If the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or an assault;

(v) If, in performing its duties as a military, correctional or police-owned dog, a dog shall not be considered vicious if the dog attacks or injures a person or domestic animal; or

(vi) If the dog was reacting to pain or injury, or was protecting itself, its kennel or its offspring.

(5) "Visual control." The attendant can see the dog(s) and is within seventy-five feet (75') of the dog(s) at all times.

(6) "Voice control." The attendant is within seventy-five feet (75') of the dog(s), is able to control and recall the dog(s) at all times, and is not allowing the dog(s) to fight with other dogs. A dog under voice control must immediately come to the attendant when so commanded. (Ord. #2010-2011-4, Dec. 2010)

10-303. <u>Park operations</u>. The city manager shall have authority to control the dog park and to make reasonable rules for its operation that are consistent with this chapter. The dog park will be operated year-round on a daily basis from sunrise to sunset, unless closed for maintenance or severe weather. (Ord. #2010-2011-4, Dec. 2010)

10-304. <u>Responsibilities of dog park users</u>. (1) The attendant must ensure that their dog(s) are legally licensed and have documentation that their dog's vaccinations are up to date.

(2) Current license and vaccination tags must be displayed on the dog's collar.

(3) All dogs shall be free of contagious or infectious diseases, be parasite-free both externally and internally, and have no visible wounds or injuries.

(4) No more than two (2) dogs per attendant are allowed in the dog park.

(5) The attendant of the dog(s) must be inside the enclosed dog park and have visual and voice control of their dog(s) at all times.

(6) Dogs shall not be left unattended at or inside the facility.

(7) All dogs must be wearing a collar, however spiked, choke, and gentle-leader style electronic collars are not permitted.

(8) The attendant of any dog(s) using the facility must have in his possession a leash that must be attached to said dog(s) when outside the facility area.

(9) The attendant must fill-in any holes dug at the facility by their dog(s).

(10) The attendant must remove their dog(s) when they become engaged in excessive barking or are fighting with other dogs.

(11) The attendant of dogs using the facility must use a suitable container to promptly remove any feces deposited by their dog(s) and properly dispose of such waste material in designated receptacles. (Ord. #2010-2011-4, Dec. 2010)

10-305. Children regulations. While inside the facility, children six (6) to eighteen (18) years of age shall be accompanied by an adult who is solely responsible for the child's proper behavior and safety. Such children are not permitted to excite or antagonize any dogs using the facility by any means including, but not limited to, shouting, screaming, waving their arms, throwing objects, running at or chasing dogs. Children under six (6) years of age are prohibited from entering the dog park. (Ord. #2010-2011-4, Dec. 2010)

10-306. Prohibited actions. To ensure the safety of the dogs and attendants the following are not permitted at the dog park:

(1) Animals that are not dogs;

(2) Dogs under the age of four (4) months;

(3) Female dogs when in heat;

(4) Dogs deemed to be vicious, or who have a previous history of aggressive behavior toward other animals or humans;

(5) The use of bicycles, roller blades/skates, skateboards and similar types of exercise equipment;

(6) Motorized vehicles and devices, except for wheelchairs for the disabled;

(7) Glass bottles and similar breakable containers;

(8) Alcoholic beverages;

(9) Smoking;

(10) Food of any type, including dog biscuits/treats; and

(11) Professional dog trainers may not use the facility in conjunction with the operation of their business. (Ord. #2010-2011-4, Dec. 2010)

10-307. Liability. Users of the dog park shall comply with all rules and regulations governing the use of the facility. The owner and/or attendant is responsible for and liable for all injuries and damages caused by their dog(s).

Use of the dog park shall constitute the implied consent of the dog owner and/or attendant to all conditions of this chapter and shall constitute a waiver of liability to the City of Soddy-Daisy to the extent allowed by applicable law. As such, users of the dog park agree and undertake to protect, indemnify, defend, and hold the City of Soddy-Daisy harmless for any injury or damage caused by or to their dog(s) during any time that said dog(s) is unleashed at the facility. (Ord. #2010-2011-4, Dec. 2010)

10-308. Enforcement. A person found to be in violation of this chapter and/or the dog park rules established by the city manager is subject to removal from the facility and may be prohibited from future use of the dog park. A violation of the provisions of this chapter is unlawful and will be punished in accordance with the general penalty provisions of the municipal code. (Ord. #2010-2011-4, Dec. 2010)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. Public intoxication. A person commits the offense of public intoxication who appears in a public place under the influence of a controlled substance or any other intoxicating substance to the degree that:

(1) The offender may be endangered;

(2) There is endangerment to other persons or property; or

(3) The offender unreasonably annoys people in the vicinity. (2007 Code, § 11-101)

11-102. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway,

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[1]Municipal code references
Animal control: title 10.
Fireworks and explosives: title 7.
Residential and utility codes: title 12.
Streets and sidewalks (non-traffic): title 16.
Traffic offenses: title 15.

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.

sidewalk, public park, public school ground or other public place. (2007 Code, § 11-102)

11-103. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on-premises consumption, except in places issued a Class 1 beer permit. (2007 Code, § 11-103)

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace. No person with the intent of causing public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, 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. (2007 Code, § 11-401, modified)

11-202. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

(a) 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.

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

(c) 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.

(d) 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.

(e) 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.

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

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

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

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

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

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

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

(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 amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (2007 Code, § 11-402, modified)

11-203. Restriction of play at recreational parks. Use of city recreational facilities within a two hundred seventy-five foot (275') radius of any church will not be permitted on Sunday between the hours of 9:00 A.M. and 1:00 P.M. (2007 Code, § 11-403)

CHAPTER 3

FIREARMS, WEAPONS AND MISSILES

SECTION

11-301. Discharging firearms restricted. It shall be unlawful for any person to discharge firearms within the corporate limits of the City of Soddy-Daisy unless in self defense or in the execution of law. This section shall not apply to a regulated target range, to any hunting during legal hunting season by a licensed hunter, to a charitable ham or turkey shoot or of a event of a similar nature. The foregoing exception relating to hunting does not apply to hunting in a congested or populated area where there is an unreasonable threat of personal injury or death from the discharge of firearms. No charitable ham or turkey shoot shall be allowed unless the site of the shoot is inspected and a permit is obtained from the chief of police or his designee. In issuing the permit, the chief of police or his designee will ascertain whether the site and layout of the shoot will pose an unreasonable threat of death or personal injury to persons in the area. The city manager will fix an appropriate fee for said permit in order to cover the cost of the inspection. (2007 Code, § 11-601)

11-302. Air rifles, etc. It shall be unlawful for any person in the town 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. (2007 Code, § 11-602)

CHAPTER 4

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-401. Trespassing. (1) On premises open to the public.

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

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

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

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

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

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (2007 Code, § 11-701)

11-402. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (2007 Code, § 11-702)

CHAPTER 5

OTHER OFFENSES

SECTION

11-501. Assembly with unlawful intent. It shall be unlawful for any person, with the intent to cause public inconvenience, annoyance, or alarm or recklessly creating a risk thereof, to congregate with other persons in a public place and refuse a lawful order of the police to disperse. (2007 Code, § 11-902)

CHAPTER 6

FALSE EMERGENCY ALARMS

SECTION

11-601. Definitions. (1) "Contracted alarm system provider." A company or business providing monitoring of or contact services to appropriate authorities for emergency reporting.

(2) "False emergency alarm." Any signal activated by an emergency alarm to which emergency personnel or vehicle(s) is dispatched which is not the result of an actual emergency.

(3) "Owner and/or operator." A person or persons who reside in, owns, controls, or operates a business or residence in which an emergency alarm is connected. (2007 Code, § 11-1001)

11-602. Fees. The following schedule of fees will be assessed to the owners and/or operators of emergency alarm systems for false emergency alarms.

First through third alarm - no fee.

Fourth through sixth alarm - twenty-five dollars ($25.00) per alarm.

Seventh and above - fifty dollars ($50.00) per alarm.

Once a third false alarm is received within a six (6) month period, the city shall send, by certified mail, a notice to the owner, operator, and/or contract alarm system provider that further false emergency alarms will result in a fee being assessed. A schedule of said fees will be included. When a fourth false alarm call is received requiring emergency response, the fee will be applicable. The fourth or any subsequent false alarm call within a six (6) month period following the date of the first false alarm call will impose the fee as provided herein. The expiration of a six (6) month period from an alarm will reduce the number of false alarms counted to impose the fee by one (1).

If it is determined that corrective action has been taken, a new continuous six (6) month period may commence. The owner or subscriber shall be responsible for providing documentation of corrective action.

If the false alarm results from a malfunction or negligence of the contract alarm system provider, the established fee will be applicable to that provider as well as the owner and/or operator.

Any false alarm dispatched through the police department will be considered a billable alarm. If a question arises as the validity of an alarm, the

final determination will be made by the city manager or their designee. (2007 Code, § 11-1002)

11-603. Calls not considered false alarms. Alarms caused by testing, repair or malfunction of telephone or electrical equipment or lines provided the owner; alarms caused by earthquakes, floods, windstorms, thunder and lightning, shall not be applicable. (2007 Code, § 11-1003)

11-604. Appeal. Any fee assessed may be appealed to the city manager. If it is determined that adequate corrective action has been taken or the false alarm was through no fault of the appellant, the fee may be waived. Further appeal may be made to the board of commissioners. (2007 Code, § 11-1004)

11-605. Payment of fee. It shall be unlawful to fail to pay a fee assessed under this chapter within twenty (20) days of notice of assessment of such fee. (2007 Code, § 11-1005)

CHAPTER 7

CURFEW FOR MINORS

SECTION

11-701. Purpose. The purpose of this chapter is to:

(1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the city;

(2) Promote the safety and well-being of minors, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activity, particularly unlawful drug activity, and to being victimized by older criminals; and

(3) Foster and strengthen parental responsibility for children. (2007 Code, § 11-1101)

11-702. Definitions. As used in this chapter, the following words have the following meanings:

(1) "Curfew hours" means the hours of 12:30 A.M. through 6:00 A.M. each day.

(2) "Emergency" means unforeseen circumstances, and the resulting condition or status, requiring immediate action to safeguard life, limb, or property. The word includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

(3) "Establishment" means any privately-owned business place within the city operated for a profit and to which the public is invited, including, but not limited to, any place of amusement or entertainment. The word "operator" with respect to an establishment means any person, firm, association, partnership (including its members or partners), and any corporation (including its officers) conducting or managing the establishment.

(4) "Minor" means any person under eighteen (18) years of age who has not been emancipated under *Tennessee Code Annotated*, §§ 29-31-101, *et seq*.

(5) "Parent" means:

(a) A person who is a minor's biological or adoptive parent and who has legal custody of the minor, including either parent if custody is shared under a court order or agreement;

(b) A person who is the biological or adoptive parent with whom a minor regularly resides;

(c) A person judicially appointed as the legal guardian of a minor; and/or

(d) A person eighteen (18) years of age or older standing in loco parentis as indicated by authorization by a parent as defined in this definition for the person to assume the care or physical custody of the minor, or as indicated by any other circumstances.

(6) "Person" means an individual and not a legal entity.

(7) "Public place" means any place to which the public or a substantial portion of the public has access, including, but not limited to: streets, sidewalks, alleys, parks, and the common areas of schools, hospitals, apartment houses or buildings, office buildings, transportation facilities, and shops.

(8) "Remain" means:

(a) To linger or stay at or upon a place; or

(b) To fail to leave a place when requested to do so by a law enforcement officer or by the owner, operator, or other person in control of that place.

(9) "Temporary care facility" means a non-locked, non-restrictive shelter at which a minor may wait, under visual supervision, to be retrieved by a parent. A minor waiting in a "temporary care facility" may not be handcuffed or secured by handcuffs or otherwise to any stationary object. (2007 Code, § 11-1102)

11-703. Curfew enacted; exceptions. It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked on any public place within the city, or to remain in or upon the premises of any establishment within the city, unless:

(1) The minor is accompanied by a parent;

(2) The minor is involved in an emergency;

(3) The minor is engaged in an employment activity, or is going to or returning home from employment activity, without detour or stop;

(4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent;

(5) The minor is attending an activity supervised by adults and sponsored by a school, religious, or civic organization, by a public organization or agency, or by a similar organization, or the minor is going to or returning from such an activity without detour or stop;

(6) The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the

name, signature, address, and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand;

(7) The minor is involved in interstate travel through, or beginning or terminating in, the City of Soddy-Daisy; or

(8) The minor is exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and freedom of assembly. (2007 Code, § 11-1103)

11-704. Parental involvement in violation unlawful. It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of § 11-703 of this chapter. (2007 Code, § 11-1104)

11-705. Involvement by owner or operator of vehicle unlawful. It is unlawful for a person who is the owner or operator of a motor vehicle knowingly to permit, allow, or encourage a violation of § 11-703 of this chapter using the motor vehicle. (2007 Code, § 11-1105)

11-706. Involvement by operator or employee of establishment unlawful. It is unlawful for the operator or any employee of an establishment knowingly to permit, allow, or encourage a minor to remain on the premises of the establishment during curfew hours. It is a defense to prosecution under this section that the operator or employee promptly notified law enforcement officials that a minor was present during curfew hours and refused to leave. (2007 Code, § 11-1106)

11-707. Giving false information unlawful. It is unlawful for any person, including a minor, knowingly to give a false name, address, or telephone number to any law enforcement officer investigating a possible violation of § 11-703 of this chapter. Each violation of this section is punishable by a maximum fine of fifty dollars ($50.00). (2007 Code, § 11-1107)

11-708. Enforcement. (1) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-703 shall make an immediate investigation to determine whether or not the presence of the minor in a public place, motor vehicle, or establishment during curfew hours is a violation of that section. If the investigation reveals a violation and the minor has not previously been issued a warning, the officer shall issue a verbal warning to the minor to be followed by a written warning mailed by the police department to the minor and his parent(s). If the minor has previously been issued a warning for a violation, the officer shall charge the minor with a violation of § 11-703 and shall issue a citation requiring the minor to appear in

court. In either case, the officer shall, as soon as practicable, release the minor to his parent(s) or place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours so the parent(s) may retrieve the minor. If a minor refuses to give an officer his name and address or the name and address of his parent(s), or if no parent can be located before the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a crisis center or juvenile shelter and/or may be taken to a judge or juvenile intake officer of the juvenile court to be dealt with as required by law.

(2) Others. If an officer's investigation reveals that a person has violated §§ 11-703, 11-704, 11-705, or 11-706 of this chapter and the person has not been issued a warning with respect to a violation, the officer shall issue a verbal warning to the person to be followed by a written warning mailed by the police department to the person. If there has been a previous warning to the person, the officer shall charge the person with a violation and issue a citation directing the person to appear in court. (2007 Code, § 11-1108)

11-709. Violations and penalty. A violation of §§ 11-703, 11-704, 11-705, or 11-706 subsequent to receiving a verbal warning as provided in § 11-708 is punishable by a maximum fine of fifty dollars ($50.00) for each violation. (2007 Code, § 11-1109)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

CHAPTER 1

BUILDING CODE, ETC.[1]

SECTION

12-101. Current codes adopted. (1) The city hereby adopts the 2015 version of the International Codes Council Codes relating to building, mechanical, plumbing, gas, and one- and two-family dwellings to date, with the following exceptions:

(a) Deleting section R313.2 of the *International Residential Code* requiring automatic sprinkler systems in one (1) and two (2) family dwellings.

(b) Deleting section R322 of the *International Residential Code* relative to Flood Resistant Construction and replacing it with the requirement established by the Municipal Floodplain Zoning Ordinance and the Federal Emergency Management Agency (FEMA) Flood Evaluation Requirements.

(c) Deleting section E3902.16 and E3902.17 of the *International Residential Code* relative to arc fault circuit interrupters and replacing with "arc fault interrupter are required in bedrooms only and must meet the requirements of the National Electrical Code (NEC)".

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

(d) Adding the following text to section 105.5 of the *International Building Code* and section R105.5 of the *International Residential Code*: "Any work which has not had an inspection within 180 days of the issuance of a permit or has not had any subsequent inspections within 180 days from the previous inspection shall be deemed that the work has been suspended and the permit shall become invalid."

(e) Deleting Chapter 11 of the *International Building Code* relative to accessibility in its entirety and replaced with the requirements of the Americans with Disabilities Act (ADA).

(2) Where there is a conflict between the *International Residential Code* Chapters 34 through 43 related to electrical installation and the *National Electrical Code* (NEC), the NEC shall supersede any requirements of the residential code.

(3) The city will require building contractors, electricians, plumbers and mechanical contractors to be licensed by the State of Tennessee, Hamilton County, and/or the City of Chattanooga to perform related work as permitted by the city. Building, electrical, plumbing and mechanical permits will require purchase by a licensed contractor.

(4) Any property owner desiring to perform work on his or her own property, which may require such a license, may obtain a limited building permit upon such condition established by the city building inspector and shall not make more than one (1) application for the construction of a single-family residence within a period of twenty-four (24) months. A permit for the plumbing, electrical and mechanical work in a single-family residence, outbuilding or garage must be obtained by a licensed contractor.

(5) Structures not requiring design by a registered architect or engineer:

(a) Business, "factory-industrial," "hazardous," "mercantile," "residential" and "storage" occupancies which are less than five thousand (5,000) square feet in total gross area.

(b) One (1) family and two (2) family dwellings and domestic outbuildings.

(c) Farm buildings not designed or intended for human occupancy.

Nothing in this section shall prevent the city from requiring the services of a registered architect, engineer or landscape architect for any project.

(6) Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every

day or portion thereof during which any violation of any of the provisions of this code is committed or continued, and upon conviction of any such violation such person shall be punished within the limits as provided by state laws. (Ord. #2017-2018-7, April 2018)

CHAPTER 2

PROPERTY MAINTENANCE CODE

SECTION

12-201. Property maintenance code adopted. Pursuant to authority granted by the *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the *International Property Maintenance Code*,[1] 2015 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the residential code. (2007 Code, § 12-201, modified)

12-202. Modifications. Wherever the *International Property Maintenance Code* refers to the "building official," it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the *International Property Maintenance Code*. Wherever the "department of law" is referred to, it shall mean the city attorney. Wherever the "chief appointing authority" is referred to, it shall mean the city manager. Section 106 of the *International Property Maintenance Code* is deleted. (2007 Code, § 12-202)

12-203. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the *International Property Maintenance Code* has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (2007 Code, § 12-203)

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the *International Property Maintenance Code* as herein adopted by reference and modified. (2007 Code, § 12-204)

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

CHAPTER 3

THE STANDARD CODE FOR THE ELIMINATION OR REPAIR OF UNSAFE BUILDINGS

SECTION

12-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) "Building" means any structure or part thereof not a dwelling as above defined.

(2) "Building official" means the officer or other designated authority charged with the administration and enforcement of this code, or his duly authorized representative.

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

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

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

(6) "Public record" means deeds, deeds of trust, and other instruments of record in the registrar's office of Hamilton County, Tennessee.

(7) "Structural alterations" means any change, except for repair or replacement, in the supporting members of a building such as bearing walls, columns, beams, or girders. (2007 Code, § 12-301)

12-302. Code remedial. This code is hereby declared to be remedial and shall be constructed to secure the beneficial interests and purposes thereof--which are public safety, health and general welfare--through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises. (2007 Code, § 12-302)

12-303. Scope. The provisions of code shall apply to all unsafe buildings or structures, as herein defined, and shall apply equally to new and existing conditions. (2007 Code, § 12-303)

12-304. Alterations, repairs or rehabilitation work. (1) Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of the *International Building Code*; provided that the alteration, repair or rehabilitation work conforms to the requirements of the *International Building Code* adopted in chapter 1 of this title.

(2) Alterations, repairs or rehabilitation work shall not cause an existing building to become unsafe as defined in § 12-309.

(3) If the occupancy classification of an existing building is changed, the building shall be made to conform to the intent of the *International Building Code*, adopted in chapter 1 of this title, for the occupancy classification as established by the building official. (2007 Code, § 12-304)

12-305. Maintenance. All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the *International Building Code*, adopted in chapter 1 of this title, in a building when erected, altered or repaired, shall be maintained in good working order. (2007 Code, § 12-305)

12-306. Enforcement officer. The provisions of this code shall be enforced by the building official, codes officer, or any other employee appointed or designated by the city manager. (2007 Code, § 12-306)

12-307. Powers and duties of the building official. (1) The building official, codes officer or any employee so designated by the city manager may enter any building, structure or premises at all reasonable times to make an inspection or enforce any of the provisions of this code.

(2) When entering a building, structure, or premises that is occupied, the building official shall first identify himself, present proper credentials and request entry. If the building, structure, or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge of the building and demand entry. If entry is refused, the building official or authorized representative shall have recourse to every remedy provided by the law to secure entry.

(3) No person, owner or occupant of any building or premises shall fail, after proper credentials are displayed, to permit entry into any building or onto any property by the building official or his authorized agent for the purpose of inspections pursuant to this code. Any person violating this section shall be prosecuted within the limits of the law. (2007 Code, § 12-307)

12-308. Liability. Any officer or employee charged with the enforcement of this code, acting for the city manager in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provisions of this code shall be defended by the legal department of the board of commissioners until the final termination of the proceedings. (2007 Code, § 12-308)

12-309. Defects making dwellings unfit for human habitation and dangerous buildings. All dwellings or buildings which have any or all of the following defects shall be deemed to be unfit for human habitation or dangerous buildings:

(1) Those whose interior walls or other vertical members list, lean or buckle to such an extent that a plum line passing through the center of gravity falls outside the middle third of its base.

(2) Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage or deterioration of the support member or members, or fifty percent (50%) of damage or deterioration or the non-supporting enclosing or outside walls or covering.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind or other causes so as to become dangerous to life, safety, morals, or the general health and welfare of the occupants of the people of the city.

(5) Whenever any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.

(6) Whenever for any reason a building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose it is being used.

(7) Whenever any building, structure or portion thereof, as a result of decay, deterioration or dilapidation, is likely to fully or partially collapse.

(8) Whenever any building, structure, or portion thereof is in such a condition as to constitute a public nuisance.

(9) Whenever any exterior appendages or portion of a building or structure is not securely fastened, attached or anchored that they may fall and injure members of the public or property.

(10) Those dwellings or buildings existing in violation of any provision of this chapter or any other ordinances of this city at the time such provisions become effective. (2007 Code, § 12-309)

12-310. When unfit dwellings and dangerous buildings are to be repaired or demolished. All dwellings unfit for human habitation and all dangerous buildings within the terms of § 12-309 are hereby declared to be public nuisances, and shall be repaired or demolished as hereinbefore and hereinafter provided. The following criteria shall be used by the building inspector in ordering repair or demolition:

(1) If the dwelling or dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter or other ordinances of this city, it shall be ordered repaired.

(2) In any case where a dwelling unfit for human habitation or a dangerous building is fifty percent (50%) damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a dwelling or a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a dwelling or a dangerous building is a fire hazard existing or erected in violation of the provisions of this chapter or any ordinance of this city or any statute of the State of Tennessee, it shall be demolished. (2007 Code, § 12-310)

12-311. Abatement of nuisances; inspector's duties. (1) The building inspector shall inspect any dwelling, building, wall or structure about which complaints are filed by any person to the effect that it is or may be existing in violation of this chapter.

(2) He shall inspect any dwelling, building, wall or structure reported by the fire or police department or the department of health as probably existing in violation of the provisions of this chapter.

(3) He shall notify (in writing) the owners, occupants, lessees, mortgagees, agents, and all other persons having any interest, as shown by the public records, in any dwelling or building found to be unfit for human habitation or a dangerous building within the standards set forth in this chapter, that:

(a) The owner must repair or demolish said dwelling or building in accordance with the terms of this notice and this chapter;

(b) The occupant or lessee must vacate such dwelling or building or must have it repaired in accordance with the notice and this chapter in order to remain in possession; and

(c) The mortgagee, agent or other persons having an interest in said dwelling or building as shown by the public records may, at his own risk, repair or demolish said dwelling or building or have such work or act done. However, any person notified under this subsection to repair or demolish any dwelling or building shall be given such reasonable time, not exceeding sixty (60) days, as may be necessary to do, or have done, the work or act required by the notice provided herein.

(4) Failure of any owner, occupant, lessee, mortgagee, agent, or other person having an interest in said dwelling or building, to receive a copy of the inspector's notice if mailed, or failure of the city or the inspector to notify any owner, occupant, lessee, mortgagee, agent or other person having an interest in said dwelling or building, shall not relieve the remaining persons who are actually notified in accordance with this subsection of their responsibilities hereunder.

(5) The building inspector shall set forth in the notice provided for in subsection (3) hereof, a description of the dwelling or building deemed unsafe, a statement of the particulars which make the dwelling unfit for human habitation or the building a dangerous building, and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, to begin within sixty (60) days and completion not to exceed one hundred twenty (120) days.

(6) The building inspector shall report to the city manager any noncompliance with the notice provided for in this section. The manager shall in turn report his findings and recommendations to the board.

(7) The building inspector shall appear at all hearings conducted by the board and testify as to the condition of the dwellings unfit for human habitation and the dangerous buildings.

(8) The building inspector shall place a notice on all dwellings unfit for human habitation and on all dangerous buildings as follows:

DANGER

This building is deemed unsafe
for human occupancy
under § 12-309 of the Building Code of the
City of Soddy-Daisy

It is unlawful for any person to occupy
or reside in this building

City of Soddy-Daisy

Any unauthorized person removing this notice
Will be prosecuted

(2007 Code, § 12-311)

12-312. Abatement of nuisances; board's duties. (1) Upon receipt of a report of the city manager as provided for in § 12-311, the board shall give written notice to the owner, occupant, mortgagee, lessee, agent, and any other person having an interest in said dwelling or building, as shown by the public records, to appear before the board on the date specified in the notice to show cause why the dwelling or building reported to be unfit for human habitation or a dangerous building should not be repaired or demolished in accordance with the statement of particulars set forth in the inspector's notice provided for in § 12-313.

(2) The board shall hold a hearing and hear such testimony as the inspector and the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the public records, shall offer relative to the dwelling being unfit for human habitation or a dangerous building.

(3) The board shall make written findings of fact from the testimony offered, as to whether or not the dwelling is unfit for human habitation or the building in question is a dangerous building within the terms and provisions of this chapter.

(4) The board shall issue an order, based upon its findings of fact, commanding the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said dwelling or building, as shown by public records, to repair or demolish any dwelling found to be a dangerous building within the terms and provisions of this chapter. Any person so notified shall have the privilege of either repairing the dwelling or building or demolishing it at his own risk to prevent the acquiring of a lien against the land upon which said dwelling or building stands by the city as provided in subsection (5) hereof.

(5) If the owner, occupant, mortgagee, lessee, or agent fails to comply with the order provided for in subsection (4) hereof within ten (10) days, the board shall cause such dwelling or building to be repaired or demolished as the facts may warrant, under the criteria hereinbefore provided. Furthermore, the board shall, with the assistance of the city attorney cause the cost of such repair or demolition to be charged against the land on which the building existed as a municipal lien shall be superior to all liens except liens for state, county and municipal taxes and municipal special assessments, to be recovered in a suit at law against the owner.

(6) The board shall report to the city attorney the names of all persons not complying with the order provided for in subsection (4) of this section. (2007 Code, § 12-312)

12-313. Emergency abatement of nuisances. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dwelling unfit for human habitation or a dangerous building, as defined herein, is immediately repaired or demolished, the inspector shall report such facts to the board, and the board shall cause the immediate repair or demolition of such dwelling or building. The cost of such emergency repair or emergency demolition of such dwelling or building shall be a lien to be collected in the same manner as provided in this chapter. (2007 Code, § 12-313)

12-314. Notices and orders to out-of-town owners, etc. In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the city, all notice or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in said dwelling or building, as shown by the public records, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dwelling or building to which it relates. (2007 Code, § 12-314)

12-315. Failure to receive notices and effect. The fact that any person entitled to notice hereunder did not receive any such notice shall not affect the validity of the proceedings taken herein under so long as the procedures for giving notice herein provided have been followed. (2007 Code, § 12-315)

12-316. Remedies provided herein are cumulative. Nothing in this chapter shall be construed to impair or limit, in any way, the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. The measure and procedures herein provided do not supersede, and this chapter does not repeal, any other measures or procedures which are provided by the ordinances of the city for the elimination, repair or correction of the conditions referred to in this chapter, but the measures and procedures herein provided for shall be in addition to the other powers and authority of the city or its inspector. (2007 Code, § 12-316)

12-317. Violations and penalty. Any person, firm, corporation or agent who shall violate any provision of this code, or fail to comply therewith, or with any of the requirements thereof shall be guilty of a misdemeanor and shall be punished according to the general penalty provisions of this code of ordinances. (2007 Code, § 12-317)

CHAPTER 4

SWIMMING POOL AND SPA CODE

SECTION

12-401. Swimming pool code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-516, and for the purpose of regulating the minimum requirements for the design, construction, alteration, repair and maintenance of swimming pools, spas, hot tubs and aquatic facilities, the *International Swimming Pool and Spa Code*,[1] 2015 edition, or any subsequent edition, as prepared by the International Code Council, is hereby adopted and incorporated by reference as part of this code except as otherwise specifically stated in the chapter and is hereinafter referred to as the swimming pool code.

12-401. Modifications. The following sections are hereby revised to read as follows:

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_____

_____

12-403. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the swimming pool code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool and spa code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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

CHAPTER 5

ENERGY CONSERVATION CODE

SECTION

12-501. Energy conservation code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the design of energy-efficient building envelopes and the installation of energy-efficient mechanical, lighting and power systems to establish energy-efficient buildings using prescriptive and performance-related provisions which will make possible the use of new materials and innovative techniques that conserve energy, the *International Energy Conservation Code*,[1] 2015 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (2007 Code, § 12-501, modified)

12-502. Modifications. Whenever the energy code refers to the duties of a certain official named therein, that designated official of the City of Soddy-Daisy who has duties corresponding to those of the named official in the energy code shall be deemed to be the responsible official insofar as enforcing the provisions of the energy code are concerned. (2007 Code, § 12-502)

12-503. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the energy code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (2007 Code, § 12-503)

12-504. Violations and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the *International Energy Conservation Code* as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars ($50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (2007 Code, § 12-504)

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

CHAPTER 6

ELECTRICAL CODE

SECTION

12-601. Electrical code adopted. (1) The city hereby adopts the 2014 *National Electrical Code*[1] to date.

(2) Amending article 210.12(A)(B) of the 2014 NEC by deleting the requirements for arc fault interrupters in dwelling unit kitchens, family rooms, living rooms, parlors, libraries, dens, sunrooms, closets, hallways, laundry areas, or similar rooms. Replaced with arc type circuit interrupters, combination type shall be required in all bedrooms and in all other rooms shall be optional. (Ord. #2017-2018-8, April 2018)

12-602. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-603. Electrical contractors to be licensed. The city will require that electrical contractors be licensed by the State of Tennessee, Hamilton County, and/or the City of Chattanooga to perform related work as permitted by the city. (Ord. #2017-2018-8, April 2018)

12-604. Permits required. Electrical permits will require purchase by a licensed contractor. (Ord. #2017-2018-8, April 2018)

12-605. Violations and penalty. Any person, firm, corporation or agents who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall alter, repair or install, any electrical system, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued, and upon conviction of any such violation such person shall be

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

punished within the limits as provided by state law. (Ord. #2017-2018-8, April 2018)

CHAPTER 7

ADMINISTRATIVE HEARING OFFICER

SECTION

12-701. Municipal administrative hearing officer. (1) In accordance with *Tennessee Code Annotated*, title 6, chapter 54, §§ 1001, *et seq*., there is hereby created the Soddy-Daisy Municipal Office of Administrative Hearing Officer to hear violations of any of the provisions codified in the Soddy-Daisy Municipal Code relating to building and property maintenance, including:

(a) Building codes adopted by the City of Soddy-Daisy;
(b) All residential codes adopted by the City of Soddy-Daisy;
(c) All plumbing codes adopted by the City of Soddy-Daisy;
(d) All electrical codes adopted by the City of Soddy-Daisy;
(e) All gas codes adopted by the City of Soddy-Daisy;
(f) All mechanical codes adopted by the City of Soddy-Daisy;
(g) All energy codes adopted by the City of Soddy-Daisy;
(h) All property maintenance codes adopted by the City of Soddy-Daisy; and
(i) All ordinances regulating any subject matter commonly found in the above described codes.

The administrative hearing officer is not authorized to hear violation of codes adopted by the state fire marshal pursuant to *Tennessee Code Annotated,* § 68-120-101(a) enforced by deputy building inspector pursuant to *Tennessee Code Annotated*, § 68-120-101(f).

The utilization of the administrative hearing officer shall be at the discretion of the city manager and/or the city manager's designee and/or the chief building official of the City of Soddy-Daisy, and shall be an alternative to the enforcement included in the Soddy-Daisy Municipal Code.

(2) There is hereby created one (1) administrative hearing officer position to be appointed by the city commission pursuant to § 12-705 below.

(3) The amount of compensation for the administrative hearing officer shall be approved by the city commission.

(4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city manager.

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in *Tennessee Code Annotated*, title 6, chapter 54, §§ 1001, *et seq*. (Ord. #2016-2017-17, March 2017)

12-702. Communication by administrative hearing officer and parties. (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.

(2) Notwithstanding subsection (1) above, an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the city attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.

(3) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.

(4) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5) below.

(5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person

from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (Ord. #2016-2017-17, March 2017)

12-703. Appearance by parties and/or counsel. (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by any provision of law, other representative. (Ord. #2016-2017-17, March 2017)

12-704. Pre-hearing conference and orders. (1) (a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:

(i) The simplification of issues;

(ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;

(iii) The limitation of the number of witnesses; and

(iv) Such other matters as may aid in the disposition of the action.

(b) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.

(2) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, on any question of law.

(3) In the discretion of the administrative hearing officer, all or part of the pre-hearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(4) If a pre-hearing conference is not held, the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (Ord. #2016-2017-17, March 2017)

12-705. Appointment of administrative hearing officer/ administrative law judge. (1) The administrative hearing officer shall be appointed by the city commission for a four (4) year term and serve at the pleasure of the city commission. Such administrative hearing officer may be reappointed.

(2) An administrative hearing officer shall be one (1) of the following:

(a) Licensed building inspector;

(b) Licensed plumbing inspector;

(c) Licensed electrical inspector;

(d) Licensed attorney;

(e) Licensed architect; or

(f) Licensed engineer.

(3) The city may also contract with the administrative procedures division, office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the requirements of *Tennessee Code Annotated*, § 6-54-1007(a) and (b). (Ord. #2016-2017-17, March 2017, modified)

12-706. Training and continuing education. (1) Each person appointed to serve as an administrative hearing officer shall, within the six (6) month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Service, referred to in this part as MTAS. MTAS shall issue a certificate of participation to each person whose attendance is satisfactory. The curricula for the initial training shall be developed by MTAS with input from the administrative procedures division, office of the Tennessee Secretary of State. MTAS shall offer this program of training no less than twice per calendar year.

(2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. MTAS developed the continuing education curricula and offers that curricula for credit no less than twice per calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the individuals licensed under this part. No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year.

(3) MTAS has the authority to set and enact appropriate fees for the requirements of this section. The city shall bear the cost of the fees for the administrative hearing officer serving the city.

(4) Costs pursuant to this section shall be offset by fees enacted. (Ord. #2016-2017-17, March 2017)

12-707. Citations for violations; written notice. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the

city's administrative hearing ordinance, the issuing officer shall provide written notice of:

(a) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, upon timely, written application, a more definite and detailed statement shall be furnished ten (10) business days prior to the time set for the hearing;

(b) A short and plain description of the city's administrative hearing process including references to state and local statutory authority;

(c) Contact information for the city's administrative hearing office; and

(d) Time frame in which the hearing officer will review the citation and determine the fine and remedial period, if any.

(2) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not admission of guilt.

(3) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.

(4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (Ord. #2016-2017-17, March 2017)

12-708. <u>Review of citation; levy of fines</u>. (1) Upon receipt of a citation issued pursuant to § 12-707, an administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.

(a) For violations occurring upon residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars ($500.00) per violation. For purposes of this section, "residential property" means a single-family dwelling principally used as the property owner's primary residence and the real property upon which it sits.

(b) For violations occurring upon non-residential property, a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars ($500.00) per violation per day. For purposes

of this part, "non-residential property" means all real property, structures, buildings and dwellings that are not residential property.

(2) If a fine is levied pursuant to subsection (1) above, the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) nor greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.

(3) Upon the levy of a fine pursuant to subsection (a) below, the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:

(a) The fine and remedial period established pursuant to subsections (1) and (2) above;

(b) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and

(c) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.

(4) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the hearing officer within seven (7) business days of receipt of the notice required in subsection (3) above.

(5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) above shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled. (Ord. #2016-2017-17, March 2017)

12-709. **Party in default**. (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

(2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default. (Ord. #2016-2017-17, March 2017)

12-710. **Petitions for intervention**. (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

(a) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;

(b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(c) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(2) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervener's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

(b) Limiting the intervener's participation so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two (2) or more intervenors to combine their participation in the proceedings.

(3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (Ord. #2016-2017-17, March 2017)

12-711. Regulating course of proceedings; hearing open to public.

(1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the pre-hearing order.

(3) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.

(4) The hearing shall be open to public observation pursuant to *Tennessee Code Annotated*, title 8, chapter 44, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (Ord. #2016-2017-17, March 2017)

12-712. Evidence and affidavits. (1) In administrative hearings:

(a) The administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious.

(b) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in subsection (2) below. Unless the opposing party, within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affiant, the opposing party's right to cross examination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as provided in this subsection (b), the affidavit shall not be admitted into evidence. "Delivery," for purposes of this section, means actual receipt.

(c) The administrative hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice.

(d) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the municipality. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available.

(e) (i) Official notice may be taken of:

(A) Any fact that could be judicially noticed in the courts of this state;

(B) The record of other proceedings before the agency; or

(C) Technical or scientific matters within the administrative hearing officer's specialized knowledge.

(ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material notice, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

(2) The notice referred to in subdivision (b) above shall contain the following information and be substantially in the following form:

The accompanying affidavit of _____(here insert name of affiant) will be introduced as evidence at the hearing in _____ (here insert title of proceeding) _____ (here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify _____ (here insert name of the proponent or the proponent's attorney) at _____(here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to _____ (here insert name of proponent or the proponents attorney) on or before _____ (here insert a date seven (7) business days after the date of mailing or delivering the affidavit to the opposing party).

(Ord. #2016-2017-17, March 2017)

12-713. <u>Rendering of final order</u>. (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.

(2) A final order shall include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.

(3) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

(4) If an individual serving or designated to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any existing record and may conduct any further proceedings as is appropriate in the interest of justice.

(5) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(6) A final order rendered pursuant to subsection (1) above shall be rendered in writing within seven (7) business days after conclusion of the hearing or after submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.

(7) The administrative hearing officer shall cause copies of the final order under subsection (1) above to be delivered to each party. (Ord. #2016-2017-17, March 2017)

12-714. Final order effective date. (1) All final orders shall state when the order is entered and effective.

(2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (Ord. #2016-2017-17, March 2017)

12-715. Collection of fines, judgements and debts. The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (Ord. #2016-2017-17, March 2017)

12-716. Judicial review of final order. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter, which shall be the only available method of judicial review.

(2) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court in the county where the municipality lies. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.

(3) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.

(4) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing

to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

(6) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this chapter. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.

(7) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.

(8) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the administrative hearing officer;

(c) Made upon unlawful procedure;

(d) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(e) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

(9) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

(10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (Ord. #2016-2017-17, March 2017)

12-717. <u>Appeal to court of appeals</u>. (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the Court of Appeals of Tennessee.

(2) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to *Tennessee Code Annotated*, title 24 shall become a part of the record.

(3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (Ord. #2016-2017-17, March 2017)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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. (2007 Code, § 13-101)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (2007 Code, § 13-102)

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 city manager or his designee to cut such vegetation when it has reached a height of over one foot (1'). (2007 Code, § 13-103)

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[1]Municipal code references
Animal control: title 10.

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 accumulation 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 city manager, his designee, the police department or the codes enforcement officer shall be responsible for enforcement of this chapter and the provisions thereof.

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

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

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

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

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

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

liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

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

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (4) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the public officer or of the board of commissioners under this section 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.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements. (2007 Code, § 13-104)

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. (2007 Code, § 13-105)

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. (2007 Code, § 13-106)

13-107. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures, and the proposed location conforms to the zoning provisions of the city, and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (2007 Code, § 13-107)

13-108. Violations and penalty. Violations of this chapter shall be punished in accordance with the general penalty provision of this municipal code of ordinances, except that violations of § 13-104 shall be handled in accordance with the provisions of that section. (2007 Code, § 13-108)

CHAPTER 2

JUNKYARDS

SECTION

13-201. Standards. The term "junkyard" shall mean any establishment or place of business which is maintained, used or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts and shall be maintained, used or operated subject to the following regulations:

1. All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place in which rats, mice, or other vermin may be harbored, reared, or propagated.

2. Any portion of the yard which borders a public street, highway or interstate shall be sheltered from public view by close fitting plank, solid metal or other fence material approved by the city manager or his designee. The same type fencing material shall be used where other portions of the yard are in direct view of residential dwellings in close proximity.

3. Those yards which have portions that are not in direct view of dwellings in close proximity may shelter those portions with trees, shrubs, vegetation or other natural barriers with the approval of the city manager or his designee.

4. In cases where the elevation of the street, highway or interstate is such that the portion of the yard bordering the street, highway or interstate cannot be sheltered from view with a close fitting plank, solid metal or other approved fence material, that portion of the yard may utilize the elevation itself as a natural barrier as stated in subsection (3) above.

5. All sheltering material must begin at ground level and extend to a height of not less than six feet (6'). All sheltering vegetation must begin at ground level and extend to a height of not less than four feet (4').

6. All junkyards within the corporate limits, including those in existence before the city incorporated, shall be operated and maintained subject to the regulations set forth in this chapter.

7. All such yards shall be maintained as to be in a sanitary condition and so as not to be a menace to the public health and safety. (2007 Code, § 13-201)

CHAPTER 3

ABANDONED, UNATTENDED, AND DISCARDED VEHICLES

SECTION

13-301. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.

(1) "Abandoned." Vehicles on property or public rights-of-way not bearing a current registration, having one (1) or more parts missing for normal operation, deflated tires or wheels removed for a ten (10) day period, presents a possible habitat for disease-bearing rodents.

(2) "Junked vehicle." Any vehicle as defined in this chapter with one (1) or more of the major components wrecked, inoperable, broken or missing, i.e. engine, transmission, tires or wheels, windows, exterior body parts for a period of over ten (10) days in any one (1) thirty (30) day period.

(3) "Property." Any real property within the city which is not a street or highway, or a public right-of-way.

(4) "Unattended vehicle." A vehicle on public property or public right-of-way that has not been moved for a period of forty-eight (48) hours.

(5) "Vehicle." A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides, and transport persons or property, or pull machinery, and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon. (2007 Code, § 15-701)

13-302. Abandoned or unattended vehicles prohibited. No person shall abandon or leave any vehicle within the city and for such time and under such circumstances as to cause such vehicle reasonably to appear abandoned or unattended. (2007 Code, § 15-702)

13-303. Junked, etc., vehicles on street prohibited. No person shall leave any junked vehicle on any street, alley, or highway within the city, or on any public right-of-way. (2007 Code, § 15-703)

13-304. Junked, etc., vehicles on property restricted. No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any junked or abandoned vehicle to

remain on such property longer than ten (10) days if visible from any street, alley, or highway within the city, or on any public right-of-way. (2007 Code, § 15-704)

13-305. Removal of violations. The chief of the police department, or any member of his department designated by him; or the public works director, or any member of his department designated by him; or the building inspector, are hereby authorized to remove or have removed, any vehicle left at any place within the city, which reasonably appears to be in violation of this chapter, or is lost, stolen, or unclaimed. The removal may take place when a "notice of violation" sticker or tag has been attached to an abandoned or unattended vehicle for a period of forty-eight (48) hours. Said "notice of violation" shall state that vehicle may be impounded or towed if the vehicle is not removed within a forty-eight (48) hour period. Such impounded or towed vehicle shall be at the cost of the owner, until lawfully claimed, or disposed of in accordance with the provisions of § 15-705. (2007 Code, § 15-705)

13-306. Violations and penalty. Any person violating any of the provisions of this chapter, shall be punishable by penalty of not more than fifty dollars ($50.00) and costs for each separate violation. (2007 Code, § 15-706, modified)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Regional planning commission designated as municipal planning commission. Pursuant to authority provided in *Tennessee Code Annotated*, § 13-3-301, the Chattanooga-Hamilton County Regional Planning Commission is hereby designated as the Municipal Planning Commission of the City of Soddy-Daisy. (2007 Code, § 14-101)

14-102. Planning commission. (1) There is hereby established a seven (7) member municipal planning commission.

(2) Membership in the Soddy-Daisy Municipal Planning Commission shall include the mayor and one (1) city commissioner elected by the Soddy-Daisy Board of Commissioners whose terms on the planning commission shall be concurrent with the terms of their official elected office.

(3) In accordance with *Tennessee Code Annotated*, § 13-4-101(a) the remaining five (5) members of the planning commission shall be appointed by the mayor.

(4) In accordance with *Tennessee Code Annotated*, § 13-4-101(a) requiring staggered terms for appointed members, the terms of the five (5) appointed members shall be two (2) members for a one (1) year term; two (2) members for a two (2) year term; and one (1) member for a three (3) year term. Thereafter, the terms of appointed members shall be for three (3) years as the initial appointments expire. (2007 Code, § 14-102)

CHAPTER 2

ZONING CODE

SECTION

14-201. Zoning code. Pursuant to the authority granted by *Tennessee Code Annotated*, § 6-54-501, the zoning ordinance adopted by 2000-2001 ordinance no. 1, as amended, is hereby adopted and incorporated by reference as part of this code and is hereafter referred to as the zoning code.[1]

[1]The zoning code, and amendments thereto, is of record in the office of the city recorder.

CHAPTER 3

FLOODPLAIN ZONING

SECTION

14-301. Statutory authorization, finding of fact, purpose and objectives. (1) Statutory authorization. The legislature of the State of Tennessee has in *Tennessee Code Annotated*, §§ 13-7-201 to 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Soddy-Daisy, Tennessee, Mayor and Board of Commissioners, do ordain as follows.

(2) Findings of fact.

(a) The City of Soddy-Daisy, Tennessee, Mayor and its legislative body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in 44 CFR chapter 1, § 60.3.

(b) Areas of the City of Soddy-Daisy, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this chapter are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential home buyers are notified that property is in a floodprone area; and

(h) To maintain eligibility for participation in the NFIP. (Ord. #2015-2016-4, July 2016)

14-302. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this chapter, shall conform to the following.

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition to an existing building" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1-3') where a clearly defined channel does not exist; where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" means the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard." See "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building." See "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(13) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(14) "Existing contraction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain

management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(15) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing structures." See "existing construction."

(17) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(18) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(19) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(20) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(21) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(22) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(23) "Flood insurance study" means the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(24) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(25) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

(26) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(27) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(28) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(29) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(30) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(31) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(32) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(33) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(34) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(35) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Soddy-Daisy, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(36) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(37) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(38) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(39) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(40) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(41) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(42) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(43) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(44) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(45) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(46) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(47) "100-year flood." See "base flood."

(48) "Person" means any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(49) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(50) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(51) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to

discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(52) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(53) "Special flood hazard area" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, or A99.

(54) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(55) "Start of construction" means substantial improvement, and means the date the building permit was issued; provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual "start" means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(56) "State coordinating agency" means The Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(57) "Structure" means, for purposes of this chapter, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(58) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(59) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the

structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial improvement; or

(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or any alteration of a "historic structure;" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(60) "Substantially improved existing manufactured home parks or subdivisions" means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(61) "Variance" means a grant of relief from the requirements of this chapter.

(62) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(63) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #2015-2016-4, July 2016)

14-303. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the City of Soddy-Daisy, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Soddy-Daisy, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) dated February 3, 2016, and Flood Insurance Rate Map (FIRM), Community 475445, Panel Numbers 47065C0109G, 47065C0118G, 47065C0120G, 47065C0140G, 47065C0209G, 47065C0217G, 47065C0226G, 47065C0227G, 47065C0228G, 47065C0229G, 47065C0231G, 47065C0235G, and 47065C0236G, dated February 3, 2016, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be: considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Soddy-Daisy, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefor, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Soddy-Daisy, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #2015-2016-4, July 2016)

14-304. Administration. (1) Designation of ordinance administrator. The building official is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature,

location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities. Specifically, the following information is required:

(a) Application stage.

(i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-305(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage.

Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by, or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or

failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with subsection (2) above.

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with subsection (2) above.

(h) When floodproofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with subsection (2) above.

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements,

or other development in Zone A on the City of Soddy-Daisy, Tennessee FIRM meet the requirements of this chapter.

(k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #2015-2016-4, July 2016)

14-305. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure.

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall

be undertaken only if said nonconformity is not further extended or replaced.

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. § 1334.

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of subsection (2) below.

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction.

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth subsection (1) above, are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior wall shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on

both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated; provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade.

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices; provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to

impede the movement of floodwaters and all such partitions shall comply with the provisions of subsection (2) above.

(d) Standards for manufactured homes and recreational vehicles:

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-302).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of subsections (A) and (B) above.

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new

developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data. (See subsection (5) below).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Soddy-Daisy, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located

within the special flood hazard areas established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above.

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-303(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see subsection (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of subsections (1) and (2) above.

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of subsection (2) above.

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material,

shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Soddy-Daisy, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above. Within approximate A Zones, require that those in subsection (2) above dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in subsections (1) and (2) above, apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of subsection (2) above.

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and

methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-304 and 14-305 shall apply.

(8) Standards for unmapped streams. Located within the City of Soddy-Daisy, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided, demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-304 and 14-305. (Ord. #2015-2016-4, July 2016, modified)

14-306. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The City of Soddy-Daisy, Tennessee, Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals; how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the

provisions of this chapter. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of one hundred fifty dollars ($150.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply.

(A) The City of Soddy-Daisy, Tennessee, Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-304(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars ($25.00) for one hundred

dollars ($100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #2015-2016-4, July 2016)

CHAPTER 4

ZONING BOARD OF APPEALS

SECTION

14-401. Membership terms and compensation. The board shall consist of five (5) members who shall be appointed by the mayor for three (3) year terms. Of the initial board, two (2) members shall serve for one (1) year, two (2) members for (2) years, and one (1) member for three (3) years. Thereafter, members shall serve for three (3) year terms. A term of membership is to be considered to have begun on April 1 of the year of appointment. The mayor shall have the power to appoint and reappoint members as of April 1 of any year to bring the terms of the board into compliance with this section should the schedule of terms described herein fall out of compliance. Until such time, members whose terms have expired shall be considered de facto members of the board. Members of the board shall serve without compensation. (2007 Code, § 14-401)

14-402. Meetings and rules of order. At the first meeting after the first of April of each year, the board shall elect a chairman and vice-chairman from its own membership. The board shall fix its place of meeting and shall conduct at least one (1) regular meeting a month; provided there are applications to be reviewed by the board. Other meetings of the board shall be held on the call of the chairman and at such times as the board may determine. The presence of three (3) members shall constitute a quorum. In all other matters, the board shall proceed to its own rules of order for the conduct of business, such rules being of public record. The city attorney or his designated representative shall be present at each board meeting if requested by the board. (2007 Code, § 14-402)

14-403. Jurisdiction of the board. The board shall have the following powers:

(1) To make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent and under the conditions set forth in the following subsections, upon the request of the owner of the property in question;

(2) To interpret the zoning maps and pass upon disputed questions of foot lines or zone boundary lines or similar questions as they arise in the administration of the zoning regulations;

(3) To hear and decide appeals from property owners on actions or decisions by an administrative official in the administration or enforcement of the zoning ordinance; and

(4) To review conditional permits and other special permits specified in the ordinance to determine that the provisions of the chapter are met. In the case of conditional permits and other special permits, the board may set a time period for the permits, at the conclusion of which the board may review for an extension of an additional time period or the termination of the permit. (2007 Code, § 14-403)

14-404. Applications to the board. Persons desiring consideration by the board shall apply to the secretary of the board and shall supply such information as the board may require to identify the land and determine the reason for the appeal or review. Each application by a property owner shall be accompanied by a receipt for a fee of fifty dollars ($50.00), paid to the City of Soddy-Daisy to cover the city's cost of handling the application, no part of which fee is returnable.

Persons objecting to the relief sought by the applicant or interested in the review or determination made by the board may likewise set forth their views and actual evidence in writing and be signed by the objectors. The application and objections shall be submitted to the board within three (3) business days prior to any hearing. (2007 Code, § 14-404)

14-405. Notices. A notice of the public hearings held by the board shall be sent by regular mail to each of the property owners within a minimum of three hundred feet (300') of each property in question before the board. Said notice will be mailed at least seven (7) days prior to the public hearing by the board. The most recently updated tax roll for the City of Soddy-Daisy will be the source of ownership information for board purposes. A notice shall be published one (1) day in a daily paper at least seven (7) days before the hearing. (2007 Code, § 14-405)

14-406. Hearings. All official actions of the board shall be subject to due notices and public hearings, as established by its rules. Any interested person may appear and be heard subject to procedures adopted by the board.

A review by the planning commission staff may be required for the purpose of obtaining information available as to the effect of a proposed variance, conditional permit, or administrative ruling upon the use, enjoyment, safety, and value of the land and buildings nearby. Such report may contain other information on existing or pre-existing conditions relating to topography, geology, utilities, existing and proposed land use and factors pertaining to the comprehensive plan of the city.

A review by city officials may be required for the purpose of obtaining information as to the effect of a proposed variance conditional permit or administrative ruling upon the flow of traffic, congestion, parking, service for utilities and similar matters usually pertaining to the functions of their office.

The board shall make and record findings of fact relevant to their decisions and shall accept letters and petitions for the record and shall particularly examine the facts relating to the conditions set forth in § 14-407 of this chapter.

The board shall make a determination that it has been delegated authority to render a decision in each case and that it is not performing a legislative function not delegated by the legislative body of the city. (2007 Code, § 14-406)

14-407. Condition for board decisions. Before a variance or special exception may be granted, the board must find that the following conditions exist:

(1) That by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment for the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of the zoning ordinance would result in peculiar and practical difficulties or undue hardships upon the owner to develop his property in accordance with the use provisions of the zoning regulations.

(2) That the relief of the peculiar hardships, practical difficulties or undue hardships granted by the board would not constitute substantial detriment to the public good or substantially impair the intent and purpose of the zoning ordinance.

(3) That the peculiar hardship, practical difficulties, or undue hardships would apply to the particular land or building regardless of the owner.

(4) That the peculiar hardship, practical difficulties, or undue hardship is not created as the result of an act upon the part of the applicant.

(5) That the peculiar hardship, practical difficulties, or undue hardships asserted by the applicant relate only to the premises for the benefit of which the variance or special exceptions sought and would not be generally applicable to other premises in the city or the general conditions of the applicant.

(6) Provided, however, that where the application for a variance or special exception involves only the addition to or extension of an existing building or structure, the board may allow such addition or extension when said addition or extension would be no less conforming as to setback distances than the existing structure or structures on the same adjacent property; provided further, that such addition or extension is not in conflict with the character of the area in which the property is located or the comprehensive zoning plan.

(7) In each case, the board shall find that the use where proposed will be in harmony with general intent and purpose of the zoning ordinance and shall require such yard requirements, screening, landscaping, ingress and egress controls, sign controls, as reasonable controls so as to make the conditional property use compatible with surrounding property uses and in conformance with the general intent and purpose of the zoning ordinance. (2007 Code, § 14-407)

14-408. Board findings. (1) The board shall make its findings in writing on each of the conditions stipulated in § 14-407, and on such additional items presented as evidence which have influenced its decision. The decision of the board shall become effective immediately. Such decision, affirming, revising, or modifying the order, requirement, decision, or determination of the administrator of the zoning ordinance and such conditional permits and other special permits or special exceptions or variances to the provisions of the zoning ordinance shall be effective for an unlimited period of time unless otherwise specified by this chapter or the board.

(2) If the decision of the board has not fully utilized and confirmed by the construction of the improvements contemplated by the applicant within a period of one (1) year or other time certain stipulated by the board, then the applicant will be required to reapply to the board and the application will be reheard upon the ground stipulated by the applicant as of the time of the new application.

(3) The board shall not rehear any case upon the same grounds within a minimum period of one (1) year of its previous hearing date.

(4) The board may adopt for its record such policies as can be reasonably developed for its own guidance in dealing with the more common types of request for adjustment. (2007 Code, § 14-408)

14-409. Records. The board shall keep a duplicate record of its proceedings, findings, and action in each case, giving specific reasons for its action and for any deviation from policy it might have established in past cases. The vote of each member on each question shall appear in the record. All records of the board shall be open to the public. (2007 Code, § 14-409)

14-410. Stay. Upon applying for special exception, variance, interpretation, or review by the board, the applicant shall stay any cut or fill of

property, construction, or alteration on the building or property for which action by the board is sought. (2007 Code, § 14-410)

14-411. Appeal from the board's decision. The action of the board of appeals for variances and special permits shall be final; provided, an appeal from the action of the board may be taken to a court of competent jurisdiction by any aggrieved, affected party. (2007 Code, § 14-411)

14-412. Administration. The city manager or his designated assistant shall be the secretary of the board. He shall conduct all official correspondence subject to the rules and direction of the board, and send out all notices and attend all meetings, keep the minutes, compile the records and maintain the official files for the board or cause the same to be done. (2007 Code, § 14-412)

CHAPTER 5

MOBILE HOME PARKS

SECTION

14-501. Definitions. For the purposes of this chapter, the following words and phrase shall have the meanings ascribed to them in this section:

(1) "Mobile home" or "manufactured home" means any structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) or more body-feet in width or forty (40) or more body-feet in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection (1) except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established by title 42 of the United States Code. "Mobile home" or "manufactured home" does not include recreational vehicles or campers.

(2) "Mobile home park" or "mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more lots sold or rented for the purpose of affixing a mobile home or manufactured home.

(3) "Occupant" means any person residing in or occupying a mobile home or manufactured home in a mobile home park.

(4) "Operator" means any person who, either personally or through employees, agents, representatives or contractors, owns or is conducting, operating, managing, or carrying on any mobile home park, or any person with control of a mobile home park.

(5) "Owner" means the person(s) who holds the legal or beneficial title of real or personal property.

(6) "Person" means any and all persons, including any natural person, individual, firm or association, limited liability company, and/or any municipal or private corporation, organized or existing under the laws of this or any other state.

(7) "Pre-owned home" means any mobile home or manufactured home that has been previously used as a residential dwelling and has been titled.

(8) "Single-wide" means a mobile home that is constructed as a single self-contained unit and mounted on a single chassis. (Ord. #2017-2018-6, Feb. 2018)

14-502. <u>Sanitation</u>. (1) The owner and/or operator shall provide and maintain adequate and sanitary facilities and methods for the storage, collection, handling and disposal of refuse. The storage, collection and disposal of refuse in the central storage area shall not create a health, safety or fire hazard, rodent harborage, insect breeding area, air pollution, or other public or private nuisance.

(a) The owner and/or operator shall provide for central refuse storage and appropriate disposal of the same.

(b) If refuse pick up is not provided within the park, the occupant shall be responsible for transporting refuse to the park's central refuse storage.

(c) The occupant shall be responsible for the proper maintenance and storage of refuse on his or her lot.

(2) The owner and/or operator shall maintain the grounds, buildings and structures in such a manner as to control noxious insect and rodent infestations. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the agency having jurisdiction.

(3) The owner and/or operator shall control growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds. The elimination of such weeds where the growth is limited to a single lot shall be the responsibility of the occupants of said lot.

(4) The owner and/or operator shall not store agricultural pesticides and toxic chemicals in an area accessible to park residents or visitors. If any pesticides or toxic chemicals are stored or made available, they shall be used as directed on the package and in accordance with any applicable environmental regulations, and stored so as not to cause air, surface water or ground water pollution. (Ord. #2017-2018-6, Feb. 2018)

14-503. <u>Management duties</u>. (1) The owner and/or operator shall provide a suitable and responsible individual to be in charge of the property and who shall be readily available while the property is occupied.

(2) The owner and/or operator shall comply with the provisions of this chapter and with all conditions imposed in accordance with the law, and shall allow the city manager, codes enforcement officer, public safety officers or other

designated representatives of the city to enter the premises at any reasonable time to ascertain compliance with this chapter.

(3) The owner and/or operator shall be responsible for traffic control measures that will preclude hazards to vehicular and pedestrian traffic, and to ensure ready access to any and all sites by emergency vehicles at all times.

(4) The owner and/or operator shall be responsible for immediately reporting to the codes enforcement officer any interruption in the treatment of supply of drinking water; all fires resulting in a report or call to a fire department or police; and the existence of inadequately treated sewage on the surface of the ground.

(5) The owner and/or operator shall:

(a) Maintain the mobile home park, its facilities and equipment in good repair and in a clean and sanitary condition;

(b) Notify the occupants of the mobile home park of relevant provisions of this administrative regulation, including occupants' duties and responsibilities;

(c) Assign proper orientation and location of each home in the mobile home park;

(d) Maintain a register containing the names of community occupants, to be made available to the codes enforcement officer or other city employees authorized to inspect the mobile home park;

(e) Maintain a map showing the location of each of the lots with their assigned numbers, to be made available to public safety or emergency personnel, the codes enforcement officer or other city employees authorized to inspect the mobile home park;

(f) Provide at every road or driveway intersection within the mobile home park a sign indicating the lot numbers for the row of homes proceeding from the intersection along any drive extending from such intersection;

(g) Provide and affix three by five (3 x 5) reflective numbers corresponding to the numbers on the map provided for in subsection (e) above which would be visible from the roadway for public safety or emergency personnel, the codes enforcement officer, or other authorized city employees; and

(h) Provide and maintain landscaping within the front and side yard areas of each home, and all open areas in the mobile home park not otherwise used. Native and drought tolerant vegetation shall be used to the fullest extent possible in landscaping. (Ord. #2017-2018-6, Feb. 2018)

14-504. <u>Vicarious responsibility of park owners</u>. The owner of a mobile home park is vicariously and jointly responsible with the operator for any violations of this chapter. (Ord. #2017-2018-6, Feb. 2018)

14-505. Inspection, certificate of occupancy and fees for pre-owned homes. A certificate of occupancy shall be required to locate a pre-owned mobile home or manufactured home in the city.

(1) To apply for a certificate, applicants shall provide to the building inspector:

(a) An affidavit signed by the applicant certifying the age of the home; and

(b) The permit fee required by subsection (4) below.

(2) Inspection. The pre-owned manufactured home must be inspected as provided in § 14-507 prior to its being relocated in the mobile home park.

(3) Certificate of occupancy. A certificate of occupancy shall be issue to the applicant at such time that the building inspector certifies that the requirements of this chapter have been met and final inspection has been made.

(4) Permits. A building and electrical permit must be purchased at Soddy-Daisy City Hall to the home being placed in the mobile home park by the owner of the home. An electrical permit can only be purchased by a licensed electrician.

(5) Recordkeeping. The owner/operator of a mobile home park shall maintain copies of all permits and certificates required of the mobile home park. (Ord. #2017-2018-6, Feb. 2018)

14-506. Permissible and prohibited pre-owned homes; age limits.

(1) Unless it passes the inspection provided for in § 13-307 below, a pre-owned mobile home cannot be placed in a mobile home park twelve (12) months after the date it first is titled. In no event may a mobile home, five (5) previous model years or more of age from the calendar year in which placement is sought, be placed in the mobile home park without first passing an inspection as provided in § 13-307.

(2) A mobile home currently located within and owned by the mobile home park over twenty-five (25) model years of age must pass inspection provided for in § 13-307 and must be inspected every five (5) years. Mobile homes over fifteen (15) years of age located within and owned by the mobile home park must pass inspection as provided in § 13-307 to any change in tenants. In no event shall a mobile home located within and owned by the mobile home park exceed forty (40) model years of age.

(3) If, as of May 1, 2018 the owner/operator of a mobile home park asserts that a mobile home previously owned by the owner/operator of the park is now owned by a resident of the park, the owner/operator of the park will be required to produce for inspection

(a) A document of conveyance to the purported new owner;

(b) A copy of the new certificate of title showing the title in the new owner, with, if applicable, the notation of any lien on the title; and

(c) Any written lease agreement or other indicia of a landlord/tenant relationship between the owner/operator of the park and

the resident. If such documents cannot be produced, there will be a rebuttable presumption that the mobile home is still owned by the owner/operator and such home will be subject to the forty (40) year limitation imposed by this section. (Ord. #2021-2022-3, Sept. 2021)

14-507. Inspection of mobile homes. All pre-owned manufactured home not exempted or prohibited by the previous section shall comply with the following before being issue a certificate of occupancy by the building inspector.

(1) HUD code. Every pre-owned manufactured home located in the jurisdiction shall be in compliance with the Manufactured Home Construction and Safety Standards Act, 42 U.S.C. §§ 5401-5445 *et seq*. and shall not have been altered in such a way that the home no longer meets the HUD code.

(2) Interior condition. Every floor, interior wall, and ceiling of a pre-owned manufactured home shall be in sound condition. Door and windows shall be operable, watertight and in good working condition. The floor system shall be in sound condition and free of warping, holes, water damage, and/or deterioration.

(3) Exterior condition. The exterior of all pre-owned manufactured homes shall be free of loose or rotting boards or timbers, and any other condition that might admit rain or moisture to the interior portions of the walls or to be occupied spaces. The exterior siding shall be free of rot, rust, mold and mildew. Roofs shall be structurally sound and have no obvious defects that might admit rain or cause moisture to collect on the interior portion of the home.

(4) Sanitary facilities. Every plumbing fixture, water, and waste pipe of a pre-owned manufactured home shall be in a sanitary working condition when properly connected, and shall be free from leaks and obstructions. Each home shall contain a kitchen sink. Each bathroom shall contain a lavatory and water closet. At least one (1) bathroom shall contain a tub and/or shower facilities. Each of these fixtures shall be checked upon being connected to ensure they are in good working condition.

(5) Heating systems. Heating shall be safe and in working condition. Un-vented heaters shall be prohibited.

(6) Electrical systems. Electrical systems (switches, receptacles, fixtures, etc.) shall be properly installed and wired and shall be in working condition. Distribution panels shall be in compliance with the approved listing, complete with required breakers, with all unused openings covered with solid covers approved and listed for that purpose. The home shall be subject to an electrical continuity test to assure that all metallic parts are properly bonded. An electrical permit shall be purchased by a licensed electrician. Electricians shall be licensed in the State of Tennessee, Hamilton County or City of Chattanooga. The electrical connection to the meter shall be inspected by the City of Soddy-Daisy prior to final power being turned on to the home.

(7) Hot water supply. Each home shall contain a water heater in safe and working condition.

(8) Egress windows. Each bedroom of a manufactured home shall have at least one (1) operable window of sufficient size to allow egress if necessary.

(9) Ventilation. The kitchen in the home shall have at least one (1) operating window or other ventilation device.

(10) Smoke detectors. Each pre-owned manufactured home shall contain one (1) operable battery-powered smoke detector in each bedroom and in the kitchen, which must be installed in accordance with the manufacturer's recommendations.

(11) Foundation enclosure, decks, porch and steps. Each mobile home shall have a front porch, minimum size four feet by eight feet (4' x 8'); a back porch, minimum size four feet by four feet (4' x 4'); handrails on each porch shall be a minimum of thirty-six inches (36") in height with pickets no more than four inches (4") apart. Underpinning is required, solid material only. No lattice or plywood allowed. Anchors/ties downs are required as per manufacturer's specifications.

(12) The following fees and expenses will be charged by the building official for inspections provided herein:

(a) Fifty dollars ($50.00) per inspection within twenty-five (25) miles of the Soddy-Daisy City hall.

(b) Seventy-five dollars ($75.00) per inspection plus mileage over twenty-five (25) miles from the Soddy -Daisy City Hall. (Ord. #2017-2018-6, Feb. 2018, modified, as amended by Ord. #2021-2022-3, Sept, 2021)

14-508. Remedies provided herein are cumulative. Nothing in this chapter shall be construed to impair or limit, in any way, the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. The measures and procedures herein provided do not supersede, and this chapter does not repeal, any other measures or procedures which are provided by the ordinances of the city for the elimination, repair or correction of the conditions referred to in this chapter, but the measures and procedures herein provided for shall be in addtion to the other powers and authority of the city or its inspector. (Ord. #2017-2018-6, Feb. 2018)

14-509. Violations and penalty. Any person, firm, corporation or agent who shall violate any provision of this code, or fail to comply therewith, or with any of the requirements thereof shall be guilty of a misdemeanor and shall be punished according to the general penalty provisions of this code of ordinances. (Ord. #2017-2018-6, Feb. 2018)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by *Tennessee Code Annotated*, title 55, chapter 9. (2007 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (2007 Code, § 15-102)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (2007 Code, § 15-103)

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

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

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

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

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (2007 Code, § 15-104)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use, except that traffic moving at less than the normal rate of speed shall use the extreme

right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (2007 Code, § 15-105)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (2007 Code, § 15-106)

15-107. Miscellaneous traffic-control signs, etc.[1] It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

15-108. General requirements for traffic-control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*,[2] and shall be uniform as to type and location throughout the city.

15-109. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal.

15-110. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed,

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[1]Municipal code references

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

[2]For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, §§ 1680-3-1, *et seq*.

the presumption shall be that it is official and that it has been lawfully placed by the proper city authority. (2007 Code, § 15-110)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (2007 Code, § 15-111)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (2007 Code, § 15-112)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (2007 Code, § 15-113)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (2007 Code, § 15-114)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (2007 Code, § 15-115)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (2007 Code, § 15-116)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (2007 Code, § 15-117)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of *Tennessee Code Annotated*, § 55-50-301(a)(1) or other applicable state law. (modified)

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

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (2007 Code, § 15-119)

15-120. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred (1,500) pounds, and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters (50cc) which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

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

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one (1) time than the number for which it is designed and equipped.

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

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

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(ii) to (iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided that no ventilation airway shall exceed one and one-half inches (1-1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Foundation.

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred (1,500) pounds and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

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

15-121. <u>Regulation of vehicle loads; covering required</u>. It shall be unlawful to operate any truck, trailer, tractor trailer or any other motor vehicle of whatsoever nature hauling or carrying any load on any street, highway or public road of the city in violation of the following regulations.

(1) No such vehicle shall be driven or moved on any such street, highway, or public road unless such vehicle is constructed or loaded, and covered, so as to prevent any of its load from dropping, escaping or shifting in such a manner as to create a safety hazard or a public nuisance; provided that this section shall not prohibit the necessary spreading of any substance in public roads for maintenance or construction operations.

(2) No person shall operate, or load for operation on any public road, any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner becoming a hazard to other users of the public road.

(3) No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry into or deposit in any street, alley, or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

(4) Nothing in these regulations shall conflict with Federal Regulations, or Tennessee Public Service Commission Regulations applying to securing of loads on motor vehicles.

(5) Any vehicle operated on the streets of this city in violation hereof may be detained by the city until the violation is corrected, provided that nothing herein shall be construed to prevent the city from issuing citations or levying fines for any such violation. (2007 Code, § 15-121)

15-122. Regulation of unopened rights-of-way. It shall be unlawful to operate a motor vehicle of whatsoever nature, private or commercial, with a capacity to haul or carry any load of over one quarter (1/4) ton on any unopened rights-of-way owned by the City of Soddy-Daisy to or from a commercially or industrially zoned property.

For the purpose of this section, an "unopened" right-of-way is a right-of-way not opened by the city or accepted by the city by the vote of the city commission. (2007 Code, § 15-122)

15-123. Non-standard colored vehicle lights. (1) It shall be unlawful for any unauthorized motor vehicle to be operated within the City of Soddy-Daisy utilizing non-standard colored lights. For the purposes of this section, non-standard colored lights are:

(a) Any light facing to the front of a vehicle or that can be seen from the front of the vehicle that is not a shade of white or amber; and

(b) Any light facing to the rear of a vehicle or that can be seen from the rear of a vehicle that is not a shade of white, red or amber.

(2) This section does not apply to any type of light approved for use by local, state, or federal law, any light that is factory installed or replica (for example, "blue dot" rear lamp inserts), or any light used during a show or parade.

(3) That, in order to apprise the driving public of this new ordinance, a police officer observing a violation of this provision may issue a warning (written or verbal) relative to such violation for all first offenses of the ordinance, and may, in accordance with the city police manual and procedures, issue citations or further warnings in appropriate circumstances. (2007 Code, § 15-123)

15-124. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Adult" means any person eighteen (18) years of age or older.

(b) "Automobile" means any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the

physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" means a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(e) "Juvenile" as used in this chapter means a person less than eighteen (18) years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of Soddy-Daisy unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.

15-125. <u>Compliance with financial responsibility law required</u>.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

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

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

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

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars ($50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected.

15-126. <u>Adoption of state traffic statutes</u>. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the town adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the town adopts *Tennessee Code Annotated*, §§ 55-8-181 to 55-8-193, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-8-199 by reference as if fully set forth in this section.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined. 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. (2007 Code, § 15-201)

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

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (2007 Code, § 15-202)

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle

within the block where fire apparatus has stopped in answer to a fire alarm. (2007 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or police officer. (2007 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty-five (35) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (2007 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (2007 Code, § 15-302)

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

In school zones where the board of commissioners has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

The school zone speed limit on Sequoyah Road designated for Soddy-Daisy High School, Daisy Elementary, and Sequoyah High School shall be changed from fifteen (15) miles per hour to twenty-five (25) miles per hour when applicable to school traffic. (2007 Code, § 15-303)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.[1] (2007 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (2007 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of the intersection of the centerlines of the two (2) roadways. (2007 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (2007 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (2007 Code, § 15-405)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (2007 Code, § 15-501)

15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (2007 Code, § 15-502)

15-503. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') 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 one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (2007 Code, § 15-503)

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (2007 Code, § 15-504)

15-505. 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. (2007 Code, § 15-505)

15-506. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows.

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

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

(3) Steady red alone, or "Stop":

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

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

(4) Steady red with green arrow:

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

(b) Pedestrians facing such signal shall not enter the roadway unless authorized 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. (2007 Code, § 15-506)

15-507. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

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

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

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (2007 Code, § 15-507)

15-508. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (2007 Code, § 15-508)

15-509. <u>Stops to be signaled</u>. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. (2007 Code, § 15-509)

[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

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

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (2007 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (2007 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (2007 Code, § 15-603)

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

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:

(a) Physically handicapped; or

(b) Parking such vehicle for the benefit of a physically handicapped person.

A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under *Tennessee Code Annotated*, § 55-8-160(c). (2007 Code, § 15-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (2007 Code, § 15-605)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (2007 Code, § 15-606)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (2007 Code, § 15-801)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (2007 Code, § 15-802)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. (2007 Code, § 15-803)

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[1]State law reference
Tennessee Code Annotated, §§ 7-63-101, *et seq*.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked, so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, give satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be equal to the fee charged by the wrecker service who tows the vehicle. The storage cost of the impounded vehicle shall be twenty-five dollars ($25.00) a day for each motor vehicle stored in the impoundment lot. Any part of a day shall count as a whole day. (2007 Code, § 15-804, as amended by Ord. #2012-13-13, March 2013)

15-705. Disposal of abandoned motor vehicles. Abandoned motor vehicles, as defined in *Tennessee Code Annotated*, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 to 55-16-109. (2007 Code, § 15-805)

15-706. Deposit of chauffeur's or operator's license in lieu of bail.

(1) Deposit allowed. Whenever any person lawfully possessing a chauffeurs or operators license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any municipal ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of an operators or chauffeurs license for any period of time, such person shall have the option of depositing his chauffeurs or operators license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. The officer, or the court demanding bail, who receives any person's chauffeurs or operators license as herein provided, shall issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeurs or operators license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of *Tennessee Code Annotated*, §§ 55-7-401, *et seq*. (2007 Code, § 15-806)

15-707. Violations and penalty. Any violation of this chapter shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

(2) Parking citations. (a) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the recorder a fine of ten dollars ($10.00); provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, his civil penalty shall be twenty-five dollars ($25.00).

(b) Disabled parking violations, or parking in a space designated for disabled drivers without legal authority, shall be punishable by a fine of up to fifty dollars ($50.00).

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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. (2007 Code, § 16-101)

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 over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (2007 Code, § 16-102)

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

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. (2007 Code, § 16-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code. (2007 Code, § 16-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of commissioners. (2007 Code, § 16-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (2007 Code, § 16-106)

16-107. 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. (2007 Code, § 16-107)

16-108. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (2007 Code, § 16-108)

16-109. Parades regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city manager. No permit shall be issued by the city manager unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (2007 Code, § 16-109)

16-110. 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. (2007 Code, § 16-110)

16-111. 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. (2007 Code, § 16-111)

16-112. Heavy commercial trucks prohibited from traveling on residential streets. 1. Limitations on truck traffic. No truck having three (3) or more axles shall travel on a street that has been posted as having limitations of such nature at any time. The city manager will determine appropriate limitations after consultation with the public works director and/or the chief of police. Exceptions to this restriction are permitted for school buses, moving vans, garbage trucks or common delivery vehicles. The city reserves its right to pursue payment from truck operators and owners for damages caused by the use of a posted street by trucks in violation of this section.

2. The city manager may grant exemptions. Upon application to the city manager or the city manager's designee, a truck owner or operator may request a limited exception to this section upon posting of a bond to repair any damage to any affected city street. The determination as to the extent and nature of the exemption, the preferred route, and the amount of the bond will be made in the sole discretion of the city manager or his designee. (2007 Code, § 16-112)

CHAPTER 2

EXCAVATIONS AND CUTS

SECTION

16-201. Definitions. (1) "City manager." The city official who shall serve as the supervisor for the public works director or any other subordinate employee assigned or delegated direct responsibility for the administration of this chapter.

(2) "Emergency." A sudden or unexpected occurrence or condition calling for immediate action. The repair of a broken or malfunctioning utility line or services shall be deemed an emergency if a repair is reasonably warranted under existing circumstances prior to the next working day.

(3) "Excavation." Any excavation or tunneling of any public street right-of-way including, but not limited to, excavating in, cutting of, or tunneling of any street, sidewalk or curb for purposes of constructing or maintaining pipes, lines, driveways, or private streets, poles, guy wires, signs, or other utility or private structure or facility.

(4) "Public works director." A person employed by the city to physically inspect any excavation for conformity with the permit and other provisions of this chapter. (2007 Code, § 16-201)

16-202. Permit required. It shall be unlawful for any person, firm, corporation, public or private utility, association, or other entity, to make any cut or excavation in any street, curb, alley, or public right-of-way (power and telephone poles excluded), or to tunnel under any street, curb, alley, or public right-of-way in the city without having first obtained a permit, as herein required, and without complying with the provisions of this chapter; and it shall

be unlawful to violate or to vary from the terms of any such permit; provided, however, any person maintaining pipes, lines, driveways, or other facilities in or under the surface of any public right-of-way may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately; provided the permit could not reasonably and practically have been obtained before hand. Such person shall thereafter apply for a permit on the first regular business day on which the permit shall be retroactive to the date when the work was begun; however, such requirements may be waived by the city manager or his designee. (2007 Code, § 16-202)

16-203. Applications. Applications for such permits shall be made to the city manager or such person designated by him to receive such applications, and shall state thereon the location of the intended excavation, street cut, or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, public or private utility, association, or others doing the actual excavating, and the name of the person, firm, corporation, public or private utility, association, or others for whom the work is being done, and shall contain an express agreement that the applicant will comply with all ordinances and laws relating to the work to be done. The applicant shall disclose any foreseeable lane or sidewalk closures or detours during excavation. Such application shall be rejected or approved by the city manager or his designee within five (5) working days of its filing. The action of the city manager or his designee in granting or refusing a permit shall be final, except as it may be subject to review at law. A permit may be refused for the following reasons:

(1) The proposed excavation should be redesigned to mitigate a potential safety hazard;

(2) The proposed excavation should be redesigned to mitigate damage within the right-of-way;

(3) The proposed excavation cannot be safely made in the street right-of-way;

(4) The proposed restoration plan does not meet the minimum standards for restoration;

(5) The applicant has willfully failed to comply with conditions of prior permits issued to the applicant; provided that such disqualification shall be removed upon correction of any such defects; and/or

(6) For other good cause in the discretion of the city manager or his designee.

Provided, that as to an excavation done in emergency circumstances the application shall be completed on the next working day; and the city manager or his designee shall review the actual work completed for conformity with the requirements hereof. (2007 Code, § 16-203)

16-204. Application fee. Each application shall be accompanied by a fee as follows:

Driveway	$25.00 each
Bore	$250.00 each + $5,000.00 bond
Road cut	$250.00 each + $5,000.00 bond
Utility cut	$250.00 each + $5,000.00 bond
Emergency utility cut for repair after 4:00 P.M. and weekends	$50.00 each + $5,000.00 bond
Cut parallel to road	$1.00/ft in right-of-way min. $250.00 $0.50/ft. in right-of-way min. $150.00
Admin. fee	$5.00

(2007 Code, § 16-204)

16-205. Deposit or bond. The City of Soddy-Daisy may require a cash deposit or surety bond. The deposit or surety bond shall be as provided in § 16-204 for each job or activity or in the amount of one thousand dollars ($1,000.00) on an annual basis. The deposit or surety bond shall ensure proper restoration of the ground and laying of pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city manager, city engineer or such person designated by the city manager may increase the amount of the deposit or surety bond to an amount considered to be adequate to cover the cost. If the applicant fails to perform as per requirements in § 16-207 of this chapter, expenses incurred by the City of Soddy-Daisy for proper street restoration will be deducted from the deposit or surety bond. In the event expenses are deducted from an annual surety bond, it shall be the responsibility of the applicant to deposit with the City of Soddy-Daisy, within two (2) working days, cash or bond in an amount sufficient to maintain annual bond level at one thousand dollars ($1,000.00). Expenses incurred by the City of Soddy-Daisy for property restoration in excess of deposit or bond shall be charged to the person, firm, corporation, or association who made the cut, excavation or tunnel. In addition, the applicant shall guarantee that any excavation, tunnel, cut, bore or any existing underground utilities on city streets or rights-of-way shall not cost the city funds for any reason. If such cost is incurred, the person, agent, or organization shall be billed one hundred percent (100%) of actual cost plus twelve percent (12%) general administration. No deposit or bond shall be required of security companies. (2007 Code, § 16-205)

16-206. Manner of excavating--barricades and lights. 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, lights and other traffic-control devices shall be maintained to prevent accidents and injury to persons or property. If any sidewalk is blocked, a temporary sidewalk shall be provided which shall be safe for travel and convenient for users. No work shall be done which deviates from the plans approved and until a change of plan has been secured from the city manager or his designee. All expenses of such safety measures and temporary sidewalks shall be borne by the applicant or owner. (2007 Code, § 16-206)

16-207. Liability and responsibility for repair. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore the street, alley or public place to its original condition at its own expense 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 city manager or his designee shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same plus twelve percent (12%) administrative fee to such person, firm, corporation, association or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, and accurate account of the expense involved shall be kept, and the total including overhead cost and twelve percent (12%) administrative fee shall be charged to the person, corporation, association, or others who made the excavation or tunnel. Restoration of said street, alley or right-of-way shall be to specifications and requirements set by the City of Soddy-Daisy. No deviation from the specifications and requirements shall be allowed without specific written authorization from the city manager, city engineer or authorized agents. (2007 Code, § 16-207)

16-208. Driveway cuts. No person, firm, corporation, association, or other entity shall cut, build, or maintain a driveway across a city right-of-way without first obtaining a permit. Such permit will not be issued when the proposed driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property, a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. It shall be unlawful for any land owner to construct or maintain his driveway in such a manner that driveway material, (dirt, mud, gravel, etc.) will move onto the street or right-of-way due to inclement weather or any other reason. In the event driveway material moves onto any city street from any new or existing driveway, it shall be the responsibility of the land owner to promptly remove

debris (dirt, mud, gravel, etc.) from the street or right-of-way to restore the street or right-of-way to its original condition.

General requirements for driveway connections other than commercial.

1. There will be a minimum of one (1) driveway per parcel or lot of record which must access an already constructed dedicated and publicly accepted state, county or municipal street or road.

2. The location of the driveway must be approved by the public works director or his designee.

3. The driveway shall be a minimum of ten feet (10') in width with a turning radius as follows:

90 degrees 24'
60 degrees 26'
30 degrees 30'

4. The driveway tile must be concrete, or plastic corrugated with a minimum of twelve inch (12") cover, or approved corrugated galvanized metal.

5. The size of the tile to be installed will be determined by the public works director or his designee.

6. Depending upon the elevation of the driveway, the public works director may require stabilization, with silt fencing, straw bales, rip rap, check dams, retention ponds as deemed necessary in his discretion.

7. The first twenty-five feet (25') of drive from the city street must have a four inch (4") base of crushed stone and two inch (2") asphalt or four inch (4") concrete.

8. Requirement (7) may be omitted; provided that the driveway connection is determined to be temporary. Temporary connections cannot exceed forty-five (45) days.

9. Requirement (7) may be omitted; provided that the driveway connection is for construction of a single-family dwelling. A temporary construction connection permit for the single-family dwelling cannot exceed one (1) year.

10. Commercial driveway requirements shall conform to standards as set forth in the zoning ordinance and site plan regulations. (2007 Code, § 16-208)

16-209. <u>Perpetual care</u>. Any person, firm, corporation, public or private utility, association, or other entity affecting a public way with the city shall be responsible for the perpetual care of all street cuts until the street is resurfaced by the City of Soddy-Daisy. Repairs shall be made in accordance with specifications furnished by the City of Soddy-Daisy. It shall be the responsibility of the city manager or his designee to give notice in writing to appropriate utilities when street repairs are needed. The notice shall state location of needed repairs and specify a reasonable period of time in which repairs must be made. Failure to comply with the notice shall be a violation of

the law and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (2007 Code, § 16-209)

16-210. Inspection. The city manager or his designee shall from time to time inspect all excavations and tunnels being made in or under any public street, curb, alley, or other public right-of-way in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him before the work of refilling any such excavation or tunnel commences and the work may not commence until the inspector arrives at the site or gives verbal permission to proceed. (2007 Code, § 16-210)

16-211. Specifications. Each permit shall be assigned a set of restoration specification standards. These specifications will be referenced by number and so indicated on the permit. It shall be the responsibility of the city engineering department or public works department to maintain and provide the specification standards. The permittee may request a copy as required. The cost of the specification shall be limited to reproduction cost and paid by the permittee. (2007 Code, § 16-211)

16-212. Right-of-way encroachment. In the development of private property which abuts on any public right-of-way, to include the road pavement and shoulders and the buffer area which extends between the travelled way and the right-of-way line, and the construction of driveways thereto, it shall be unlawful for any person to regrade the buffer area by cutting or filling or doing any such work without first obtaining the approval of the superintendent of streets. All improvements in the buffer area, including driveways, shall be accomplished in such a way as not to impair drainage within the right-of-way nor alter the stability of the roadway subgrade and at the same time not impair or materially alter the drainage of the adjacent areas. All culverts, catch basins, drainage channels and other drainage structures placed in the buffer area and under driveways as the result of property being developed shall be installed in strict accordance with specifications and standards prescribed by the superintendent of streets. (2007 Code, § 16-212)

16-213. Insurance. In addition to making the deposit herein before provided to be made, each person applying for such a permit shall file a certificate of insurance or other suitable instrument 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 work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the city manager in accordance with the

nature of the risk involved; provided, however, that the liability insurance for bodily injury in effect shall not be in an amount less than three hundred thousand dollars ($300,000.00) for each person and seven hundred thousand dollars ($700,000.00) for each accident, and for property damages an amount not less than one hundred thousand dollars ($100,000.00) in any one (1) accident. (2007 Code, § 16-213)

16-214. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city manager. (2007 Code, § 16-214)

16-215. Violations and penalty. Any person, firm, corporation, public or private utility, association, or others violating any provision of this chapter shall be punished in accordance with the general penalty provision of this municipal code of ordinances. (2007 Code, § 16-215)

CHAPTER 3

IMPROPER USE OF WALKING TRACKS

SECTION

16-301. Purpose. The purpose of this chapter is to prohibit specified uses of walking tracks in the City of Soddy-Daisy. (2007 Code, § 16-301)

16-302. Vehicles prohibited. It shall be unlawful for any person, firm or corporation to place upon the walking tracks any machine propelled by power, including human power, designed to travel along the ground by use of wheels, treads, or slides, and transport persons or property, or pull machinery, and shall include without limitation, automobile, truck, trailer, go carts, motorcycle, three wheeler, bicycle, tractor, buggy and wagon. (2007 Code, § 16-302)

16-303. Additional prohibited uses. It shall be unlawful for any person, firm, or corporation to engage in any activity inconsistent with walking and shall expressly include the following: ball playing, frisbee throwing, running, horseback riding, skate boarding, horseplay, etc. (2007 Code, § 16-303)

16-304. Exceptions. Wheelchairs may be permitted, walkers will be allowed to push children in baby strollers and the city commission may approve certain special event activity. (2007 Code, § 16-304)

CHAPTER 4

DEPOSITING GARBAGE

SECTION

16-401. Depositing garbage without permission prohibited. No person shall place garbage, refuse, rubbish or other substances in any garbage container not owned by him or her or provided for his or her use and without the permission of the owner thereof. (2007 Code, § 16-401)

16-402. Violations and penalty. Any person, firm, business, corporation, public or private utility, association, club, civic organization, or others violating any provisions of this chapter shall be punished in accordance with the provisions of this section of the municipal code. Notwithstanding any other penalty provision in the city code, a violation of this chapter shall be punishable by a penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit or license on the taking of any punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. (2007 Code, § 16-402)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

CHAPTER 1

REFUSE

SECTION

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. (2007 Code, § 17-101)

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (2007 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The 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-three (33) gallons, except that this

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[1]Municipal code reference
Property maintenance regulations: title 13.

maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. (2007 Code, § 17-103)

17-104. Location of containers. Where alleys are used by the city refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (2007 Code, § 17-104)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (2007 Code, § 17-105)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the city manager. Collections shall be made regularly in accordance with an announced schedule. (2007 Code, § 17-106)

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. (2007 Code, § 17-107)

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 commissioners is expressly prohibited. (2007 Code, § 17-108)

17-109. Permit required. 1. It shall be unlawful for any person or entity to engage in the business of, or offer the services of garbage or refuse

disposal within the meaning of this chapter without having first obtained a permit from the city manager for the operation of said service.

2. Permits will be issued when the following requirements are met.

(a) A certificate of any underwriter that the applicant has in force a policy, or policies of insurance issued by an insurance company authorized to transact business within the State of Tennessee carrying general liability coverage for the operation of equipment or vehicles for bodily injuries in the amount of three hundred fifty thousand dollars ($350,000.00) for any one (1) person killed or injured, one hundred thirty thousand dollars ($130,000.00) for more than one (1) person injured or killed in any one (1) accident, and fifty thousand dollars ($50,000.00) for all damage arising from injury to or destruction of property. Such certificate of insurance must also contain an endorsement providing for a minimum of ten (10) days' notice to the city in the event of any cancellation of the policy.

(b) A contract, agreement, or other indicia of regular disposal of refuse at a governmentally approved or operated waste disposal site.

(c) Payment of the annual permit fee of ten dollars ($10.00) is hereby instituted as of January 1, 1991.

3. Any garbage disposal service having a contract with the city to perform the city's garbage collection service will not be required to obtain such permit. (2007 Code, § 17-109)

17-110. Permit revocation. The city manager may revoke the permit of any permittee if:

1. The permit was procured by fraudulent conduct or false statement of a material fact or a fact concerning the applicant which was not disclosed at the time of his making the application that would have constituted just cause for refusing to issue such permit; and

2. The permittee violates any provision of this chapter. (2007 Code, § 17-110)

17-111. Violations and penalty. It shall be unlawful to wilfully fail to pay the fee assessed by this chapter after the date said fee is delinquent, or to violate any other provision of this chapter. (2007 Code, § 17-111)

TITLE 18

WATER AND SEWERS[1]

CHAPTER
1. WATER.
2. SEWER USE AND WASTEWATER TREATMENT.
3. STORMWATER.

CHAPTER 1

WATER

SECTION
18-101. To be furnished by utility district.

18-101. To be furnished by utility district. Water service shall be furnished for the city and its inhabitants by the Hamilton County Water and Wastewater Treatment Authority. (2007 Code, § 18-101, modified)

[1]Municipal code references
Building, utility and residential codes: title 12.
Refuse disposal: title 17.

CHAPTER 2

SEWER USE AND WASTEWATER TREATMENT

SECTION

18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Soddy-Daisy, Tennessee, wastewater treatment system. By contract, the City of Soddy-Daisy's wastewater collection system is owned and operated by the Hamilton County Water and Wastewater Treatment Authority ("WWTA"). The objectives of this chapter are:

(1) To protect the public health;

(2) To provide problem free wastewater collection and transmission to the POTW treatment plant;

(3) To prevent the introduction of pollutants into the POTW, which will interfere with the operation of the POCS and RWTF or contaminate the sewage sludge, and to prevent the introduction of pollutants into the POCS which will pass through the RWTF into the receiving waters or the atmosphere, or otherwise be incompatible with or damage the RWTF, and to improve opportunities to recycle and reclaim wastewaters and the sludges resulting from wastewater treatment;

(4) To provide for full and equitable distribution of the cost of the wastewater treatment system; and

(5) To enable the City of Soddy-Daisy and the WWTA to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR part 403), and other applicable federal, and state laws and regulations.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Soddy-Daisy must have adequate wastewater disposal either in the form of a connection to the municipal wastewater system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the City of Soddy-Daisy, Tennessee, and to persons outside the city who are, by contract or agreement with the city, users of the municipal wastewater treatment system. Except as otherwise provided herein, except as delegated to the WWTA, the City Manager of the City of Soddy-Daisy shall administer, implement, and enforce the provisions of this chapter. (2007 Code, § 18-201, modified)

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251, *et seq*.

(2) "Approval authority." The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees (20°) Celsius 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 a community sewer.

(6) "Categorical standards." The national categorical pretreatment standards or pretreatment standard.

(7) "City." The City of Soddy-Daisy, a municipal corporation.

(8) "City manager." The city manager or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative. For the purposes of this chapter, the WWTA, its agents and employees, are authorized representatives of the city manager.

(9) "Compatible pollutant." BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the intermunicipal agreement.

(10) "Control authority." The "approval authority," defined herein above; or the city manager if the city has an approved pretreatment program under the provisions of 40 CFR § 403.11.

(11) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(12) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(13) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(14) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(15) "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.

(16) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(17) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and without consideration of time.

(18) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(19) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(20) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 U.S.C. § 1317), into the POTW (including holding tank waste discharged into the system).

(21) "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).

(22) "Interference." The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the intermunicipal agreement.

(23) "Mass emission rate." The weight of material discharged to the community sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of the particular constituent or combination of constituents.

(24) "Maximum concentration." The maximum amount of a specified pollutant in a volume of water or wastewater.

(25) "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.

(26) "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 one hundred twenty (120) days of proposal in the Federal Register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a "new source" means any source, the construction of which is commenced after the date of promulgation of the standard.

(27) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Federal Water Pollution Control Act, as amended.

(28) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(29) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(30) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(31) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(32) "POTW treatment plant." The wastewater treatment plant as owned and operated by the City of Chattanooga and that portion of the POTW designed to provide treatment to wastewater.

(33) "Pretreatment" or "treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except as prohibited by 40 CFR § 40.36(d).

(34) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(35) "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 WWTA for the benefit of the City of Soddy-Daisy. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City of Soddy-Daisy who are, by contract or agreement with the City of Soddy-Daisy or the WWTA, users of the city's POTW.

(36) "Shall." Mandatory; "may" is permissive.

(37) "Slug." Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(38) "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.

(39) "State." The State of Tennessee.

(40) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the city manager.

(41) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(42) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(43) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental

Protection Agency under the provision of CWA 307(a) (33 U.S.C. § 1317) or other acts.

(44) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(45) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(46) "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.

(47) "Wastewater treatment systems." Defined the same as POTW.

(48) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(49) "WWTA." The Hamilton County Water and Wastewater Treatment Authority. By contract, the WWTA owns and operates the City of Soddy-Daisy's Waterwater Collection System. (2007 Code, § 18-202, modified)

18-203. Connection to public sewers. (1) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Soddy-Daisy, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-203(1)(f) and (g) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so; provided that said public sewer is within five hundred feet (500') of the property line over public access.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state; provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(f) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-204 of this chapter.

(g) Where a public or private water supply is not available and plumbing is not a part of the construction of the building, a sanitary pit privy shall be provided in accordance with § 18-204 of this chapter.

(2) Physical connection public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without obtaining a written permit from the WWTA as required by § 18-206 of this chapter.

The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the WWTA. A connection fee shall be paid to the city at the time the application is filed.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the WWTA and/or the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(d) Old building sewers may be used in connection with new buildings, only when they are found, on examination and tested by the owner, to meet all requirements of this chapter. Tests shall be performed to the satisfaction of the WWTA. All others must be sealed to the specifications of the WWTA.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows:

Conventional sewer system: Four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades:

Four inch (4") sewers: One eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity, when flowing full, of at least two feet (2') per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of ductile iron pipe class 50 or polyvinyl chloride pipe SDR-35 for gravity sewers. Joints shall be rubber or neoprene "o" ring compression joints. No other joints shall be acceptable.

(vi) A cleanout shall be located five feet (5') outside of the building, one (1) as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty five (45) degrees. Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and one eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4").

(vii) Connections of building sewers to the public sewer system shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the WWTA.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth inch (1/8") 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 sewer is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building sewer shall be lifted by a pump and discharged to the community sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described

above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and *Water Pollution Control Federal Manual of Practice No. 9.* Any deviation from the prescribed procedures and materials must be approved by the WWTA before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the city manager or his authorized representative.

(b) The applicant for discharge shall notify the WWTA when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city manager or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance which will include repair or replacement of the building sewer as deemed necessary by the WWTA to meet specifications of the WWTA. (2007 Code, § 18-203, modified)

18-204. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), but the structure, building or residence has plumbing and is using a water supply, either public or private, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Where a public sanitary sewer is not available under provisions of § 18-203(1)(d) and a public or private water supply is not available, a sanitary pit privy may be used.

(c) 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 one-eighth inch (1/8") per foot in the building sewer but is otherwise accessible to a public sewer

as provided in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-203(2)(e)(viii).

(d) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city or WWTA to do so.

(2) Requirements. (a) A sanitary pit privy or private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the city manager 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 Hamilton County Health Department.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the Hamilton County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Hamilton County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Hamilton County Health Department. They shall be allowed to inspect the work at any stage of construction, and the owner shall notify the Hamilton County Health Department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Hamilton County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health and Environment of the State of Tennessee, and the Hamilton County Health Department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the city's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the City of Soddy-Daisy, the WWTA and the Hamilton County Health Department. (2007 Code, § 18-204, modified)

18-205. Regulation of holding tank waste disposal. No person, firm, association or corporation shall dump, drain, or flush any septic tank waste or any other type of wastewater or excreta from a private disposal system into the Soddy-Daisy sewer system. (2007 Code, § 18-205)

18-206. Application for domestic wastewater connection and industrial wastewater discharge permits. (1) Applications for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the city manager for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the city sewer shall not be made until the application is received and approved by the WWTA, the building sewer is installed in accordance with § 18-203 of this chapter, and an inspection has been performed by the city manager or his representative.

The receipt by the WWTA of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the WWTA's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city or WWTA to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall acquire a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the city manager, an application on a prescribed form accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within sixty (60) days after the effective date of this chapter, and proposed new users shall apply at least sixty (60) days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to, the following information: name, address, and SIC number of applicant; wastewater volume; wastewater constituents and characteristics, including, but not limited to, those mentioned in § 18-207(12) and (13) discharge variations—daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the

premises, each produce produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities, and any other information deemed necessary by the city manager.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the WWTA for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by § 18-207 of this chapter.

(v) The WWTA will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the WWTA of a prospective customer's application for wastewater discharge permit shall not obligate the WWTA to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the WWTA's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the WWTA to the applicant for such service.

(vii) The city manager or WWTA will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by

the WWTA 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 WWTA, the city manager shall deny the application and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the WWTA. Permits may contain the following:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(ii) Limits on the average and maximum rate and time of discharge or requirements and equalization;

(iii) Requirements for installation and maintenance of inspections and sampling facilities;

(iv) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(v) Compliance schedules;

(vi) Requirements for submission of technical reports or discharge reports;

(vii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(viii) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(ix) Requirements for notification of slug discharged; and

(x) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modifications. Within nine (9) 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 WWTA within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by § 18-206(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the WWTA 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 thirty (30)

days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation;

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit application, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the WWTA that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use related to this chapter; 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 WWTA as confidential shall not be transmitted to any governmental agency or to the general public by the WWTA until and unless prior and adequate notification is given to the user.
(2007 Code, § 18-206, modified)

18-207. Discharge regulations. (1) Purpose and policy. This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be lawfully discharged into the POTW of the City of Soddy-Daisy, Tennessee. Pretreatment of some wastewater discharge will be required to achieve the goals established by this section and the Clean Water Act. The specific limitations set forth herein, and other prohibitions and limitations of this section, are subject to change as necessary to enable the POTW treatment plant, to provide efficient wastewater treatment, to protect the public health and the environment, and to enable the WWTA and the City of Chattanooga, Tennessee to meet requirements contained in their NPDES permits.

(2) Prohibited pollutants. No person shall introduce into the publicly owned treatment works any of the following pollutants, which acting either alone or in conjunction with other substances present in the POTW interfere with the operation of the POTW as follows:

(a) Pollutants which create a fire or explosion hazard in the POTW;

(b) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than five (5.0) or higher than ten and one-half (10.5);

(c) Solid or viscous pollutants in amounts which cause obstruction to the flow of the sewers, or other interference with the operation of or which cause injury to the POTW, including waxy or other materials which tend to coat and clog a sewer line or other appurtenances thereto;

(d) Any waters or wastes containing toxic or poisonous substances in sufficient quantities to injure or interfere with the operation of or to damage the POTW;

(e) Any pollutant, including oxygen demanding pollutants released in a discharge of such volume or strength as to cause interference in the POTW; and

(f) Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the POTW wastewater with a temperature exceeding sixty five and one-half degrees (65.5°) Celsius (one hundred fifty degrees (150°) Fahrenheit).

(3) Wastewater constituent evaluation. (a) The wastewater of every industrial user shall be evaluated upon the following criteria:

(i) Wastewater containing any element or compound which is not adequately removed the POTW which is known to be an environmental hazard.

(ii) Wastewater causing a discoloration or any other condition in the quality of the POTW's effluent such that receiving water quality requirements established by law cannot be met.

(iii) Wastewater causing conditions at or near the POTW which violate any statute, rule, or regulation of any public agency of this state or the United States.

(iv) Wastewater containing any element or compound acting as a lacrimator known to cause nausea or odors which constitute a public nuisance.

(v) Wastewater causing interference with the effluent or any other product of the POTW treatment process' residues, sludges, or scums causing them to be unsuitable for reclamation and reuse or causing interference with the reclamation process.

(b) The city or the WWTA board shall establish reasonable limitations or prohibitions in the wastewater discharge permit of any user that discharges wastewater violating any of the above criteria as shall be reasonably necessary to achieve the purpose and policy of this section.

(4) National pretreatment standards. Certain industrial users are now or hereafter shall become subject to national pretreatment standards promulgated by the Environmental Protection Agency specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to a national pretreatment standard shall comply with all requirements of such standard, and shall also comply with any additional or more stringent limitations contained in this section. Compliance with national pretreatment standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three (3) years following promulgation of the standards unless a shorter compliance time is specified in the standard. Compliance with national pretreatment standards for new sources shall be required upon promulgation of the standard. Except where expressly authorized by an applicable national pretreatment standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

(5) Prohibitions on storm drainage and ground water. Stormwater, ground water, rain water, street drainage, roof top drainage, basement drainage, sub-surface drainage, or yard drainage if unpolluted shall not be discharged through direct or indirect connections to a community sewer unless a storm sewer or other reasonable alternative for removal of such drainage does not exist, and then only when such discharge is permitted by the user's

wastewater discharge permit and the appropriate fee is paid for the volume thereof.

(6) Unpolluted water. Unpolluted water, including, but not limited to, cooling water or process water, shall not be discharged through direct or indirect connections to a community sewer except on the same conditions as provided in subsection (5) herein above.

(7) Limitation on radioactive waste. No person shall discharge or permit to be discharged any radioactive waste into the community sewer.

(8) Limitations on the use of garbage grinders. Waste from garbage grinders shall not be discharged into a community sewer except where generated in preparation of food consumed on the premises, and then only where applicable fees therefor are paid. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the community sewers. Garbage grinders shall not be used for the grinding of plastic, paper products, inert materials, or garden refuse. This portion shall not apply to domestic residences.

(9) Limitations on point of discharge. No person shall discharge any substance directly into a manhole or other opening in a community sewer other than through an approved building sewer, unless he shall have been issued a temporary permit by the city manager. The city manager shall incorporate in such temporary permit such conditions as he deems reasonably necessary to ensure compliance with the provisions of this section and the user shall be required to pay applicable charges and fees therefor.

(10) Septic tank pumping, hauling, and discharge. No person owning vacuum or "cess pool" pump trucks or other liquid waste transport trucks shall discharge directly or indirectly such sewage into the POTW.

(11) Other holding tank waste. No person shall discharge any other holding tank waste into the POTW.

(12) Limitations on wastewater strength. No person or user shall discharge wastewater in excess of the concentration set forth in the table below unless:

(a) An exception has been granted the user under the provisions of § 18-208; or

(b) The wastewater discharge permit of the user provides as a special permit condition a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in the table within a fixed period of time.

Parameter	Maximum Concentration mg/l (24 hour flow) Proportional Composite Sample	Maximum Instantaneous Concentration mg/l (Grab Sample)
Biochemical Oxygen Demand	*	-
Chemical Oxygen Demand	*	-
Suspended Solids	*	-
Arsenic	1.0	2.0
Cadmium	1.0	2.0
Chromium (total)	5.0	10.0
Chromium Hexavalent	0.05	0.10
Copper	5.0	10.0
Cyanide	2.0	4.0
Lead	1.5	3.0
Mercury	0.1	0.2
Nickel	5.0	10.0
Selenium	1.0	2.0
Silver	1.0	2.0
Zinc	5.0	10.0
Oil and Grease (Petroleum and/or Mineral)	100.0	200.0

*As established by agreement between WWTA and Chattanooga.

(13) Criteria to protect the treatment plant influent of the City of Chattanooga (POTW). The WWTA shall monitor the City of Soddy-Daisy effluent for each parameter in the following table. The industrial users shall be subject to the reporting and monitoring requirements set forth in § 18-209 as to these parameters. In the event that the effluent reaches or exceeds the levels established by said table, the WWTA shall initiate technical studies to determine the cause of the influent violation, and shall recommend such remedial measures as are necessary, including, but not limited to,

recommending the establishment of new or revised pretreatment levels for these parameters. The WWTA shall also recommend changes to any of these criteria in the event the POTW effluent standards are changed or in the event that there are changes in any applicable law or regulation affecting same or in the event changes are needed for more effective operation of the POTW.

Parameter	Maximum Concentration mg/l (24 hour flow) Proportional Composite Sample	Maximum Instantaneous Concentration mg/l (Grab Sample)
Aluminum dissolved (AL)	15.00	30.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.05	0.1
Barium (Ba)	2.50	5.0
Boron	1.0	2.0
Cadmium (Cd)	0.01	0.02
Chromium Total	1.5	3.0
Cobalt	5.0	10.0
Cooper (Cu)	0.4	0.8
Cyanide (CN)	0.5	0.10
Fluoride (F)	10.0	20.0
Iron (Fe)	5.0	10.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.5	1.0
Mercury (Hg)	0.015	0.03
Nickel (Ni)	0.5	1.0
Phenols	1.00	2.0
Selenium (Se)	0.005	0.01
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Titanium dissolved	1.0	2.0
Zinc (Zn)	2.0	4.0
Total Kjeldahl	45.00	90.00
Oil & Grease	25.00	50.00

MBAS	5.00	10.0
Total Dissolved Solids	1,875.00	3,750.0
BOD	*	*
COD	*	*
Suspended Solids	*	*

*As established by the agreement between WWTA and Chattanooga.

(14) Pretreatment requirements. Users of the POTW shall design, construct, operate, and maintain wastewater pretreatment facilities whenever necessary to reduce or modify the user's wastewater constituency to achieve compliance with the limitations in wastewater strength set forth in subsection (13) above, to meet applicable national pretreatment standards, or to meet any other wastewater condition or limitation contained in the user's wastewater discharge permit.

Plans, specifications, and operating procedures for such wastewater pretreatment facilities shall be prepared by a registered engineer, and shall be submitted to the city manager for review in accordance with accepted engineering practices. The WWTA shall review said plans within forty-five (45) days and shall recommend to the user any appropriate changes. Prior to beginning construction of said pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the WWTA. Prior to beginning construction the user shall also secure such building, plumbing, or other permits that may be required by this code. The user shall construct said pretreatment facility within the time provided in the user's wastewater discharge permit. Following completion of construction, the user shall provide the WWTA with "as built" drawings to be maintained by the WWTA.

(15) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the WWTA 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 a violation of the intermunicipal agreement, 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 Health and Environment and/or the United States Environmental Protection Agency.

(16) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and

rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the WWTA before the facility is constructed. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the WWTA (or designated official) in person, by the telephone to enable countermeasures to be taken by the city manager to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC. Each user shall annually certify to the city manager compliance with this subsection. (2007 Code, § 18-207, modified)

18-208. Exception to wastewater strength standard.

(1) Applicability. This section provides a method for non-residential users subject to the limitation on wastewater strength parameters listed in § 18-207 to apply for and receive a temporary exception to the discharge level for one (1) or more parameters.

(2) Time of application. Applicants for a temporary exception shall apply for same at the time they are required to apply for wastewater discharge permit or a renewal thereof; provided, however, that the city manager shall allow applications at any time with just cause demonstrated by the user.

(3) Written applications. All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered.

(4) Review by WWTA. All applications for an exception shall be reviewed by the WWTA. If the application does not contain sufficient information for complete evaluation, the city manager shall notify the applicant of the deficiencies and require additional information. The applicant shall have thirty (30) days following notification by the city manager to correct such deficiencies. This thirty (30) day period may be extended upon application and for just cause shown. Upon receipt of a complete application, the WWTA shall evaluate same within thirty (30) days in accordance with procedures established by the WWTA board. (2007 Code, § 18-208, modified)

18-209. Industrial user monitoring, inspection reports, records access, and safety. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the WWTA.

When, in the judgment of the WWTA, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the WWTA 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 WWTA, 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 WWTA 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.

(2) Inspection and sampling. The WWTA shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its 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 WWTA, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary

arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(3) Compliance date report. Within one hundred eighty (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 WWTA a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a professional engineer registered to practice engineering in Tennessee.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall summit to the WWTA during the months of June and December, unless required more frequently in the pretreatment standard or by the WWTA, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the WWTA and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the WWTA may agree to alter the months during which the above reports are to be submitted.

(b) The WWTA may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (a) above 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 city manager 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 33 U.S.C. § 1314(g) and contained in 40 CFR part 136 and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

(a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;

(b) The dates analyses were performed;

(c) Who performed the analyses;

(d) The analytical techniques/methods used; and

(e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the WWTA, Director of the Division of Water Quality Control, Tennessee Department of Health and Environment, 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 WWTA, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the WWTA or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the WWTA employees and the WWTA shall indemnify the company against loss or damage to its property by the WWTA 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. (2007 Code, § 18-209, modified)

18-210. Enforcement and abatement. (1) Issuance of cease and desist orders. When the WWTA 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 WWTA shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

(a) Comply immediately;

(b) Comply in accordance with a time schedule set forth by the city manager;

(c) Take appropriate remedial or preventive action in the event of a threatened violation; or

(d) Surrender the applicable user's permit if ordered to do so after a show cause hearing.

Failure of the WWTA to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(2) Submission of time schedule. When the WWTA 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 WWTA shall require the user to submit for approval, with such modifications as he 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 city manager within thirty (30) days of the issuance of the cease and desist order.

(3) Show cause hearing. (a) The WWTA may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the WWTA board 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 commissioners 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 commissioners why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(b) The WWTA board may itself conduct the hearing and take the evidence, or the WWTA board may appoint a person to:

(i) Issue in the name of the WWTA board notice of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence; and

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the WWTA board for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of reproduction costs.

(d) After the WWTA board or the appointed persons have reviewed the evidence, they may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer

service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city or WWTA, the WWTA attorney or the city attorney may commence an action for appropriate legal and/or equitable relief in a court of competent jurisdiction.

(5) Emergency termination of service. The WWTA may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the WWTA, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the WWTA to violate any condition of its agreement with Chattanooga.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the WWTA shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The WWTA shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within fifteen (15) days of the date of occurrence.

(6) Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the WWTA, the board of mayor and commissioners or city manager as authorized by this chapter is hereby declared a public nuisance and shall be corrected or abated as directed by the board of mayor and commissioners or the WWTA board. Any person creating a public nuisance shall be subject to the provisions of the city code or ordinances governing such nuisance.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the city manager and/or the WWTA shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating this chapter or the owner or tenant of the property upon which the violation occurs, and the city and/or WWTA shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the WWTA shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The WWTA and/or the City of Soddy-Daisy shall sue for such damage in any court of competent jurisdiction. (2007 Code, § 18-210, modified)

18-211. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the WWTA'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 WWTA's schedule of charges and fees may include, but are not limited to:

(a) Inspection fee and tapping fee;
(b) Fees for applications for discharge;
(c) Sewer use charges;
(d) Surcharge fees;
(e) Industrial wastewater discharge permit fees;
(f) Fees for industrial discharge monitoring; and
(g) Other fees as the WWTA may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-206 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the WWTA at the time the application is filed.

(5) Sewer user charges. The WWTA board shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-206 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the WWTA for the necessary compliance monitoring and other

administrative duties of the pretreatment program. (2007 Code, § 18-212, modified)

18-212. **Validity**. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Soddy-Daisy, Tennessee. (2007 Code, § 18-213)

18-213. **Violations and penalty**. Any user who is found to have violated an order of the board of mayor and commissioners, the WWTA board, the WWTA executive director or the city manager, or who willfully or negligently fails to comply with any provision of this chapter, and the orders, rules, regulations and permits issued hereunder, shall be fined not less than fifty 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 city and/or WWTA may recover reasonable attorney's fees, engineering fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder. (2007 Code, § 18-211, modified)

CHAPTER 3

STORMWATER[1]

SECTION

18-301. General provisions. (1) Program area. This section is applicable and uniformly enforceable within the Tennessee municipalities of Collegedale, East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Soddy-Daisy, designated unincorporated areas within Hamilton County, and other eligible communities which may join the Hamilton County Stormwater Control Program (hereinafter called the program) and enact this section from time to time. All such participating communities are hereinafter collectively identified as "the parties."

(2) Authorization. The program is authorized under an interlocal agreement dated April 16, 2004, adopted by all of the parties pursuant to *Tennessee Code Annotated*, §§ 5-1-113 and 12-9-101. Said interlocal agreement specifies that the program shall be enforced by Hamilton County under applicable county rules pursuant to *Tennessee Code Annotated*, §§ 5-1-121 and 5-1-123. Applicable terms and provisions of said interlocal agreement and the standard operating procedures for the Hamilton County Stormwater Pollution Control Program, adopted by the parties subsequent to the interlocal agreement, are hereby incorporated into and made a part of this section by reference and shall be as binding as if reprinted in full herein.

(3) Purpose. It is the purpose of this section to:

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[1]Municipal code reference
Plumbing and related codes: title 12.

(a) Protect, maintain, and enhance the environment of the program service area and the health, safety, and the general welfare of its citizens by controlling discharges of pollutants to the program's stormwater system;

(b) Maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and ground water;

(c) Enable the parties to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations (40 CFR 122.26) for stormwater discharges. Compliance shall include the following six (6) minimum stormwater pollution controls as defined by U.S. EPA:

(i) Public education and outreach;

(ii) Public participation;

(iii) Illicit discharge detection and elimination;

(iv) Construction site runoff control for new development and redevelopment;

(v) Post-construction runoff control for new development and redevelopment; and

(vi) Pollution prevention/good housekeeping for municipal operations.

(d) Allow the parties to exercise the powers granted in *Tennessee Code Annotated*, § 68-221-1105, to:

(i) Exercise general regulation over the planning, location, construction, operation, and maintenance of stormwater facilities in the municipalities, whether or not the facilities are owned and operated by the municipalities;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit; and

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated. This regulation and

prohibition shall be enforceable on facilities and operations which are in existence at the time of the initial adoption of this section or which may come into existence after the adoption of this section.

(4) Goals of the program. The primary goals of the program are to:

(a) Raise public awareness of stormwater issues;

(b) Generate public support for the program;

(c) Teach good stormwater practices to the public;

(d) Involve the public to provide an extension of the program's enforcement staff;

(e) Support public stormwater pollution control initiatives;

(f) Increase public use of good stormwater practices;

(g) Detect and eliminate illicit discharges into the program service area;

(h) Reduce pollutants from construction sites;

(i) Treat the "first flush" pollutant load to remove not less than seventy-five percent (75%) Total Suspended Solids (TSS);

(j) Remove oil and grit from industrial/commercial site runoff;

(k) Protect downstream channels from erosion;

(l) Encourage the design of developments that reduce runoff;

(m) Reduce or eliminate pollutants from municipal operations; and

(n) Provide a model for good stormwater practices to the public through municipal operations impacting stormwater (i.e., municipalities should "lead by example").

(5) Administering entity. The program staff shall administer the provisions of this section under the direction of the management committee, composed of representatives of the parties. The operating mechanism for the program is defined by an interlocal agreement among the parties and the standard operating procedures adopted by same. The management committee is authorized to enforce this section and to use its judgment in interpreting the various provisions of this section, the interlocal agreement, and the standard operating procedures to ensure that the program's goals are accomplished. If any management committee member is concerned about the appropriateness of any action of the committee, he should report his concerns to the county attorney, who shall review the situation and issue an opinion within ninety (90) calendar days. Should the county attorney find that the committee has, in his judgment, acted inappropriately, but a majority of the committee, after due deliberation, disagree with said finding, the committee shall bring the matter before the county commission for consideration. The determination of the county commission with regard to the issue shall be final.

18-302. Definitions. As used herein, certain words and abbreviations have specific meanings related to the program. The definition of some, but not

necessarily all, such program-specific terms are, for the purposes of this section, to be interpreted as described herein below:

(1) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of stormwater runoff. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(2) "BMP manual" means a book of reference which includes additional policies, criteria, and information for the proper implementation of the requirements of the program.

(3) "First flush" means the initial stormwater runoff from a contributing drainage area which carries the majority of the contributed pollutants.

(4) "Hot spot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas, and restaurants.

(5) "Land disturbance activity" means any land change which may result in increased soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, except that the term shall not include agricultural activities, exempted under the Clean Water Act, and certain other activities as identified in the program's BMP manual.

(6) "Maintenance agreement" means a legally recorded document which acts as a property deed restriction and which provides for long-term maintenance of stormwater management practices.

(7) "Management committee" means a group of people composed of one (1) representative of the county and one (1) representative of each of the cities participating in the program.

(8) "Municipality" as used herein refers to Hamilton County, Tennessee, a county and political subdivision of the State of Tennessee; the Cities of Collegedale, East Ridge, Lakesite, Red Bank, Ridgeside, and Soddy-Daisy, Tennessee, and the Town of Lookout Mountain, Tennessee, all of which are chartered municipalities of the State of Tennessee; and/or any other participating governmental entity which may join the program in the future.

(9) "Organization" means a corporation, government, government subdivision or agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Person" means an individual or organization.

(11) "Program" means a comprehensive program to manage the quality of stormwater discharged in or from the program area's Municipal Separate Storm Sewer System (MS4).

(12) "Program cost" means any monetary cost incurred by the program in order to fulfill the responsibilities and duties assigned to the program under this section. "Program costs" specifically include costs incurred by any participating municipality for actions performed on behalf of or at the request of the program.

(13) "Program manager." See "stormwater manager."

(14) "Program service area" means the entire physical area within the corporate limits of each participating city together with the urbanized unincorporated are of the county.

(15) "Program staff" means a group of people hired to assist the program manager in carrying out the duties of the program.

(16) "Responsible party" means owners and/or occupants of property within the program area who are subject to penalty in case of default.

(17) "Runoff." See "stormwater runoff."

(18) "Runoff quality objectives" means the "performance criteria for runoff management" adopted by the management committee in conformance with applicable provisions of § 18-305(5) hereinafter in accordance with the "goals of the program" as outlined under § 18-301(4) herein before.

(19) "Redevelopment" means any construction, alteration, or improvement exceeding one (1) acre in areas where existing land use is high density commercial, industrial, institutional, or multi-family residential.

(20) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff and discharge resulting from precipitation.

(21) "Stormwater manager" means the person selected by the management committee, assigned to the Office of the Hamilton County Engineer, and designated to supervise the operation of the program.

(22) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

18-303. Best Management Practices (BMP) Manual. (1) Stormwater design or BMP manual. (a) The program will adopt a stormwater design and best management practices (BMP) manual (hereafter referred to as the BMP manual), which is incorporated by reference in this section as if fully set out herein.

(b) This manual will include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time at the discretion of the management committee upon the recommendation of the program staff, based on improvements in engineering, science, and monitoring and local maintenance experience. Stormwater facilities that are designed,

constructed, and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

18-304. Land disturbance permits required. (1) Mandatory. A land disturbance permit from the program will be required in the following cases:

(a) Land disturbing activity that disturbs one (1) or more acres of land.

(b) Land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land as determined by the program manager.

(c) Land disturbing activity that disturbs less than one (1) acre of land if, in the discretion of the program staff, such activity poses a unique threat to the water environment or to public health or safety.

(2) Application requirements. (a) Unless specifically excluded by this section, any landowner or operator desiring a permit for a land disturbance activity shall submit to the program staff a permit application on a form provided by the program.

(b) A permit application must be accompanied by the following:

(i) A sediment and erosion control plan which addresses the requirements of the BMP manual; and

(ii) A nonrefundable land disturbance permit fee as described in Appendix A[1] to this section.

(c) The land disturbance permit application fee shall be established for the program under the provisions of the standard operating procedures.

(3) General requirements. All land disturbing activities undertaken within the program service area shall be conducted in a manner that controls the release of sediments and other pollutants to the stormwater collection and transportation system in accordance with the requirements of the program's BMP manual.

(4) Review and approval of application. (a) The program staff will review each application for a land disturbance permit to determine its conformance with the provisions of this section. The program staff shall complete the review of an application within thirty (30) calendar days of its submission. Should an application be rejected, an additional thirty (30) calendar days will be allowed for staff review of each subsequent submission of a revised application. If the program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default. No development shall commence

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[1]Appendices to the stormwater ordinance can be found in the office of the recorder.

until the land disturbance permit has been approved by the program staff or until the time limit allowed for review has expired.

(b) Each land disturbance permit shall be issued for a specific project and shall expire twelve (12) months after its issuance. The applicant is solely responsible for the renewal of a permit if work is to continue after the expiration of the permit. Renewal will require payment of an additional land disturbance permit fee.

(5) Transfer of permit. Land disturbance permits are transferable from the initial applicant to another party. A notice of transfer, on a form acceptable to the program and signed by both parties, shall be filed with the program staff. Such transfer shall not automatically extend the life of the existing permit or in any other way alter the provisions of the existing permit.

18-305. Runoff management permits. (1) Mandatory. A runoff management permit will be required in the following cases:

(a) Development, redevelopment, and/or land disturbing activity that disturbs one (1) or more acres of land; and

(b) Development, redevelopment, and/or land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land as determined by the program manager.

(2) Runoff management. Site requirements, as fully described in the BMP manual, shall include the following items:

(a) Record drawings;

(b) Implementation of landscaping and stabilization requirements;

(c) Inspection of runoff management facilities;

(d) Maintenance of records of installation and maintenance activities; and

(e) Identification of person responsible for operation of maintenance of runoff management facilities.

(3) Application requirements. (a) Unless specifically excluded by this section, any landowner or operator desiring a runoff management permit for a development, redevelopment, and/or land disturbance activity shall submit a permit application on a form provided by the program.

(b) A permit application must be accompanied by:

(i) Stormwater management plan which addresses specific items as described in the BMP manual;

(ii) Maintenance agreement for any pollution control facilities included in the plan; and

(iii) Nonrefundable runoff management permit fees as described in Appendix A[1] to this section.

(c) The application fees for the runoff management permit shall be as established by the program under the provisions of the standard operating procedures.

(4) Building permit. No building permit shall be issued by a participating municipality until a runoff management permit, where the same is required by this section, has been obtained.

(5) General performance criteria for runoff management. Unless a waiver is granted or exempt certification is issued, all sites, including those exempted under subsection (7) below are required to satisfy the following criteria as specified in the BMP manual (whether permitted or not):

(a) Through the selection, design, and maintenance of temporary and permanent BMPs, provide pollution control for sources of contaminants and pollutants that could enter stormwater.

(b) Protect the downstream water environment from degradation including specific channel protection criteria and the control of the peak flow rates of stormwater discharge associated with design storms shall be as prescribed in the BMP manual.

(c) Implement additional performance criteria or utilize certain stormwater management practices to enhance stormwater discharges to critical areas with sensitive resources (e.g., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs).

(d) Implement specific Stormwater Treatment Practices (STP) and pollution prevention practices for stormwater discharges from land uses or activities with higher-than-typical potential pollutant loadings, known as "hot spots."

(e) Prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) and file a Notice of Intent (NOI) under the provisions of the NPDES general permit for certain industrial sites which are required to comply with NPDES requirements. The SWPPP requirement applies to both existing and new industrial sites. The owner or developer shall obtain the general permit and shall submit copies to the stormwater manager.

(f) Prior to or during the site design process, consult with the program staff to determine if a planned development is subject to additional stormwater design requirements.

(g) Use the calculation procedures as found in the BMP manual for determining peak flows to use in sizing all stormwater facilities.

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[1]Appendices to the stormwater ordinance can be found behind the Appendix tab of this code.

(6) Review and approval of application. (a) The program staff will review each application for a runoff management permit to determine its conformance with the provisions of this section. The program staff shall complete the review of an application within thirty (30) calendar days of its submission. Should an application be rejected, an additional thirty (30) calendar days will be allowed for staff review of each subsequent submission of a revised application. If the program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default.

(b) No development shall commence until the runoff management permit has been approved by the program staff or until the time limit allowed for review has expired.

(7) Waivers. (a) General. Every applicant shall provide for stormwater management; unless a written request to waive this requirement is filed with and approved by the program.

(b) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the management committee that the waiver will not lead to any of the following conditions downstream:

(i) Deterioration of existing culverts, bridges, dams, and other structures;

(ii) Degradation of biological functions or habitat;

(iii) Accelerated streambank or streambed erosion or siltation; and

(iv) Increased threat of flood damage to public health, life, or property.

(c) Runoff management permit not to be issued where waiver granted. No runoff management permit shall be issued where a waiver has been granted pursuant to this section. If no waiver is granted, the plans must be resubmitted with a runoff management plan. All waivers must be adopted by a majority of the management committee meeting in open session pursuant to the program's standard operating procedures. The applicant shall prepare an agreement which shall formalize the applicant's commitment to implement all actions proposed by the applicant and relied on by the management committee in granting the waiver. Said agreement, once determined to be acceptable to the management committee, shall be executed by an authorized representative of the applicant and the chairman of the management committee. The executed agreement shall form a binding contract between the applicant and the program, and the terms of said contract shall be fully enforceable by the program staff. The program staff's authority to enforce the terms of the waiver agreement shall be identical to those typically exercised by the staff with regard to the implementation

of runoff management plans. No construction activities shall commence at a site covered by a waiver until the waiver agreement is fully executed.

18-306. Non-stormwater discharge permits. (1) Commercial and industrial facilities. Commercial and industrial facilities located within the program service area may in certain situations be allowed to discharge nonpolluting non-stormwater into the stormwater collection system. As allowed by Tennessee Department of Environment and Conservation (TDEC) regulations, certain non-stormwater discharges may be released without a permit. A listing of such allowed discharges is included in § 18-309 which follows. Except for these discharges, a permit for all nonpolluting non-stormwater discharges shall be required in addition to any permits required by the State of Tennessee for stormwater discharges associated with industrial or construction activity.

(2) New facilities. The permit application for a new facility requesting non-stormwater discharges shall include the following:

(a) If the facilities are to be covered under the TDEC general NPDES permit for stormwater discharges associated with industrial activity, a general NPDES permit for stormwater discharges associated with construction activity, or an individual NPDES permit, the owner or developer shall timely obtain such permits or file the NOI and shall submit copies to the program.

(b) Any application for the issuance of a non-stormwater discharge under this section shall include the specific items listed in the program's BMP manual.

(c) Each application for a non-stormwater discharge permit shall be accompanied by payment of a non-stormwater discharge permit fee as described in Appendix A[1] to this section. Said fee shall be established under the provisions of the standard operating procedures for the program.

(3) Review and approval of application. (a) The program staff will review each application for a non-stormwater discharge permit to determine its conformance with the provisions of this section. Within thirty (30) calendar days after receiving an application, the program staff shall provide one (1) of the following responses in writing:

(i) Approval of the permit application;

(ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this section, and issuance of the permit subject to these conditions; or

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[1]Appendices to the stormwater ordinance can be found behind the Appendix tab of this code.

(iii) Denial of the permit application, indicating the reason(s) for the denial.

(4) Permit duration. Every non-stormwater discharge permit shall expire within three (3) years of issuance subject to immediate revocation if it is determined that the permittee has violated any of the terms of the permit or if applicable regulations are revised to no longer allow the specific non-stormwater discharge covered by the permit.

18-307. Program remedies for permittee's failure to perform.

(1) Failure to properly install or maintain sediment and erosion control measures. (a) If a responsible party fails to properly install or maintain sediment and/or erosion control measures as shown on a sediment and erosion control plan used to secure a land disturbance permit under the program, the program staff is authorized to act to correct the deficiency or deficiencies.

(b) The program manager is hereby authorized to issue a stop work order to the responsible party in any situation where the program manager believes that continued work at a site will result in an increased risk to the public safety or welfare or the downstream water environment. Upon receipt of such a stop work order, the responsible party shall immediately cease all operations at the site except those specifically directed toward correcting the deficiency or deficiencies in the sediment and/or erosion control measures.

(c) Where the deficiency or deficiencies described hereinbefore do not, in the opinion of the stormwater manager, pose an imminent threat to the public safety or welfare or the downstream water environment, the program staff shall notify in writing the responsible party of the deficiency or deficiencies. The responsible party shall then have forty-eight (48) hours to correct the deficiency or deficiencies, unless exigent or other unusual circumstances dictate a longer time. In the event that corrective action is not completed within that time, the program staff may take necessary corrective action.

(d) Where, in the opinion of the stormwater manager, the deficiency or deficiencies described herein before do pose an imminent threat to the public safety or welfare or the downstream water environment, the program staff may immediately act to correct the deficiency or deficiencies by performing or having a third party perform all work necessary to restore the proper function of the sediment and erosion control system. The responsible party will be informed, in writing, as to the actions of the program staff as soon as practicable following implementation of the corrective action. The program staff may request assistance from the staff of any community participating in the program to perform the third party corrective work described in this subsection.

(e) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to properly install and/or maintain sediment and erosion control measures in accordance with a land disturbance permit may subject the responsible party to a civil penalty from the program as described in a subsequent section of this section.

(2) Failure to meet or maintain design maintenance standards for runoff management facilities. (a) If a responsible party fails or refuses to meet the design or maintenance standards required for runoff management facilities under this section, the program staff, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.

(b) In the event that the runoff management facility is determined to be improperly operated or maintained, the program staff shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible party shall have fourteen (14) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the program staff may take necessary corrective action.

(c) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to meet the design or maintenance standards of an approved runoff management plan may subject the responsible party to a civil penalty from the program as described in § 18-309(6)(c).

18-308. Existing locations and developments. (1) Requirements for all existing locations and developments. Requirements applying to all locations and developments at which land disturbing activities occurred prior to the enactment of this section are described in the BMP manual.

(2) Inspection of existing facilities. The program may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built both before and after the adoption of this section, are functioning within design limits as established within the program BMP manual. These inspection programs may include, but are not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as sources of increased sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with increased discharges of contaminants or pollutants or with discharges of a type more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws.

Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, ground water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(3) Requirements for existing problem locations. (a) The program shall provide written notification to the owners of existing locations and developments of specific drainage, erosion, or sediment problems originating from such locations and developments and the specific actions required to correct those problems.

(b) The notice shall also specify a reasonable time for compliance.

(c) Should the property owner fail to act within the time established for compliance, the program may act directly to implement the required corrective actions.

(d) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party shall be responsible for the proper maintenance and operation of any facility or facilities installed as a part of the corrective action. Failure of the responsible party to properly install, operate, and/or maintain the facility or facilities installed as part of the corrective action may subject the responsible party to a civil penalty from the program as described in § 18-309(6)(c).

(4) Corrections of problems subject to appeal. Corrective measures imposed by the stormwater utility under this section are subject to appeal under § 18-313.

18-309. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering any separate storm sewer system within the program service area.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater except as permitted under § 18-306 of this chapter or allowed as described below. The commencement, conduct, or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

(a) Uncontaminated discharges from the following sources:

(i) Water line flushing;

(ii) Landscape irrigation;

(iii) Diverted stream flows;

(iv) Rising ground water;

(v) Uncontaminated ground water entering the stormwater collection system as infiltration ("infiltration" is defined as water, other than wastewater, that enters the storm sewer system from the ground through such means as defective

pipes, pipe joints, connections, or manholes. "Infiltration" does not include, and is distinguished from, inflow);

(vi) Pumped ground water determined by analysis to be uncontaminated;

(vii) Discharges from potable water sources;

(viii) Foundation drains;

(ix) Air conditioning condensate;

(x) Irrigation water;

(xi) Springs;

(xii) Water from crawl space pumps;

(xiii) Footing drains;

(xiv) Lawn watering;

(xv) Individual residential car washing;

(xvi) Flows from riparian habitats and wetlands;

(xvii) Dechlorinated swimming pool discharges; and

(xviii) Street washwater.

(b) Discharges specified in writing by the program as being necessary to protect public health and safety.

(c) Dye testing, if the program has so specified in writing.

(3) Prohibition of illicit connections.

(a) The construction, use, maintenance, or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of BMPs. Any person or party responsible for the source of an illicit discharge may be required to implement, at the person's or party's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information on any known or suspected release which has resulted, or may result, in illicit discharges of non-allowed pollutants into the stormwater conveyances of the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and clean up of such release. In the event that such a release involves hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.

In the event of a release of non-hazardous materials, the person shall notify the program staff in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the program staff within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) Enforcement. (a) Enforcement authority. The stormwater manager or his designees shall have the authority to issue notices of violation and citations and to impose the civil penalties provided in this section.

(b) Notification of violation. (i) Written notice. Whenever the stormwater manager finds that any permittee or any other person discharging non-stormwater has violated or is violating this section or a permit or order issued hereunder, the stormwater manager may serve upon such person written notice of the violation. A copy of any such notice shall be sent to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. Within ten (10) days of this notice, an explanation of the violation and a plan for the correction and prevention thereof, to include specific required actions, shall be prepared by the discharger and submitted to the stormwater manager. Submission of this plan and/or acceptance of the plan by the program staff in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(ii) Consent orders. The stormwater manager is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (iv) and (v) below.

(iii) Show cause hearing. The stormwater manager may order any person who violates this section or permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that

the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(iv) Compliance order. When the stormwater manager finds that any person has violated or continues to violate this section or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures and devices be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(v) Cease and desist orders. When the stormwater manager finds that any person has violated or continues to violate this section or any permit or order issued hereunder, the stormwater manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(A) Comply forthwith; or

(B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(c) Civil penalties. (i) Assessment of penalties. In addition to the authority granted to the stormwater manager in the preceding subsections to address illicit discharge violations, the stormwater manager may, in accordance with the provisions of § 18-312 of this chapter, impose a civil penalty on the party responsible for an illicit discharge.

(ii) Appeals. All penalties assessed under this section may be appealed in accordance with the provisions of § 18-313.

18-310. Conflicting standards. Whenever there is a conflict between any standard contained in this section, any BMP manual adopted by the program under this section, or any applicable state or federal regulation, the strictest standard shall prevail.

18-311. Program fees. (1) Annual program fees. The program shall be financed primarily through an annual fee charged to all residential, commercial, and industrial stormwater dischargers located within the program service area.

(a) Initial annual program fees. (i) Residential properties. A single residential annual fee of nine dollars ($9.00)

shall be adopted initially for all households in the program service area. Property used for agricultural or residential purposes and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall be charged a residential annual program fee as described above. Multi-family residential complexes shall be charged one (1) residential annual program fee for each unit in the complex regardless of the actual occupancy of a given unit. Manufactured home parks and developments shall be charged one (1) residential annual program fee for each space in the development regardless of the actual occupancy of a given space.

(ii) Commercial and industrial properties. Property used for commercial or industrial purposes within the program service area and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall initially be charged an annual fee of one hundred eight dollars ($108.00) per impervious acre of development on the property but not less than the annual residential program fee. Annual stormwater fees for commercial and industrial properties shall be rounded to the nearest dollar. Such rounding shall be applied to all annual stormwater program fees collected by the county trustee and shall be accomplished by rounding amounts ending in one cent to forty-nine cents ($0.01 to $0.49) down to the nearest dollar and amounts ending in fifty cents to ninety-nine cents ($0.50 to $0.99) up to the nearest dollar. Such rounding only applies to the base stormwater fee, and not to any interest or penalty added to delinquent fee.

(iii) Governmental, institutional, other tax-exempt properties, and properties exempted by statute or action of the management committee shall not be charged an annual program fee.

(b) Annual fee revision procedures. The annual program fee shall only be changed through the following multi-step procedure:

(i) During the first quarter of each calendar year, the stormwater manager shall perform a review of the program's financial condition, including an estimate of probable income and expenses for the upcoming year. Should the annual review indicate that the program will experience a significant budget imbalance in the coming year, the stormwater manager shall present to the management committee a request to revise the annual fee structure to correct the imbalance.

(ii) The management committee shall, at the next meeting following the receipt of the stormwater manager's recommendation, examine the annual financial review and the

stormwater manager's recommendation for the adjustment in the annual fees. If no regular meeting of the management committee is scheduled within thirty (30) calendar days of the issuance of the stormwater manager's recommendation, the chair of the committee shall call a special meeting. The management committee shall be free to adjust the proposed revisions, if any, in the amounts of the annual fees to any amounts which are supported by three-fourths (3/4) of the members of the management committee.

(iii) Once the management committee adopts an annual fee revision recommendation, the stormwater manager shall prepare a draft resolution incorporating the recommendation for action by the Hamilton County Commission. The stormwater manager shall submit the draft resolution for consideration at an upcoming meeting of the county commission, as allowed by the rules and procedures of the county commission. The county commission may adopt the recommendation, reject the recommendation, or adopt a different annual fee revision based on their own assessment of the program's financial situation, subject to the limitations described in the interlocal agreement establishing the program. The action of the county commission shall be final.

(c) Annual fee incorporation in municipal stormwater fee. Nothing contained herein shall prohibit or restrict any participating municipality from enacting and collecting an annual stormwater fee within its own jurisdictional boundaries which is higher than the program's annual fee. The program's annual fee shall be incorporated in the municipality's annual fee. The municipality may collect and utilize the excess funds derived from a higher annual stormwater fee to address stormwater issues within its boundaries as the municipality judges to be in its own best interest.

(d) Collection of delinquent annual fee payments. When any owner of any property subject to the annual program fee, fails to pay the annual program fee on or before the date when such program fee is required to be paid, interest and penalty shall be added to the amount of the program fee due, at the same rate and in the same amount as that set by state law for delinquent property tax. (See *Tennessee Code Annotated*, § 67-1-801.) Should the owner or any property subject to the annual program fee fail to remit payment for said fee within the time period adopted by the management committee for such payments, the program is authorized to take any and all actions which the management committee deems appropriate to try to collect the delinquent fee.

(2) Special program fees. The program shall be allowed to charge special program fees to individuals and organizations for specific activities which require input from the program staff. Because of the service-related

nature of the special program fees, they shall be applicable to all stormwater dischargers located within the program service area, including dischargers who may be exempt from the annual program fee. Special program fees shall comply with the following provisions:

(a) Types. Special program fees may be charged for the following types of services:

(i) Development plans review. Any person or organization with planned construction that will disturb one (1) acre or more shall submit development plans to the program staff which describe in detail the planned construction's conformance with the program requirements for stormwater pollution control at the site of the development. "Disturb" as used in this section shall identify any activity which covers, removes, or otherwise reduces the area of existing vegetation at a site, even on a temporary basis.

(ii) Erosion control plans review: Any person or organization with planned construction that will disturb one (1) acre or more shall submit erosion control plans to the program staff which describe in detail the planned construction's conformance with program requirements for erosion control at construction sites. It is understood that the erosion control plans review fee shall include on-site inspections by qualified member(s) of the program staff of the installed erosion control measures as defined by the approved erosion control plans.

(iii) Erosion control noncompliance re-inspection. Should any on-site inspection of installed erosion control measures reveal that the measures have been improperly installed, prematurely removed, damaged, or have otherwise failed and that such deficiency does not pose an imminent threat to the public safety or welfare or the downstream water environment, the program shall inform the responsible party of the deficiency, the responsible party's obligation to bring the installation into compliance with the approved plan, and the assessment of a re-inspection fee. The re-inspection fee shall reimburse the program for the costs associated with an inspector's returning to a specific site out of the normal inspection sequence.

(iv) Non-stormwater discharge permit review. Commercial and industrial facilities located within the program service area may be allowed to discharge non-polluting wastewater into the stormwater collection system. All such discharges, unless covered by a permit issued directly by TDEC or successor agency, must be covered by a discharge permit issued by the program staff and renewed annually. Fees charged by the program for such non-stormwater discharge permits will include the costs of the periodic sampling and testing of the discharge, determination of

the amount of the discharge, and any costs associated with reviewing and issuing the permit and maintaining necessary records pertaining to the permit.

(v) Residential development retention/detention basin lifetime operation and maintenance fee. The ownership of the property containing a dry detention basin constructed as a part of an approved runoff management plan for a residential development composed of multiple, individually owned lots shall be permanently transferred to Hamilton County, Tennessee, in accordance with the property transfer procedures of the county. In addition, the developer of the residential development shall pay a lifetime operation and maintenance fee to the program for each retention/detention basin. All such fees received by the program shall be deposited in an investment account and the earnings of the account shall be used to pay for the maintenance, repair, and operation of the retention/detention basins transferred to the ownership of the county.

(vi) Other. The management committee may from time to time identify other specific activities which warrant a special program fee. No such fee shall be enacted unless it is endorsed by the county mayor and approved by the county commission. Procedures for establishing a special program fee other than those identified above shall generally comply with the procedures for making revisions to the annual program fee as described in the preceding section.

(b) Initial special program fees. The initial amounts of the various special program fees shall be as noted in Appendix A[1] to this section.

(c) Special program fee revision procedures. Special program fees shall be changed only through the following multi-step procedure:

(i) The stormwater manager shall review the special program fees during the annual program financial review required under the "annual fee revision procedures" described in a previous section. The stormwater manager shall determine the financial viability of each special program fee and present to the management committee requests for revision of those fees, if any, which the stormwater manager believes should be adjusted.

(ii) Once the stormwater manager has submitted his or her recommendations, revisions of the special program fees shall comply with the procedures for management committee review and

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[1]Appendices to the stormwater ordinance can be found in the office of the recorder.

county commission action identified under the "annual fee revision procedures" described hereinbefore.

18-312. Appeals. All actions of the program staff, except for possible criminal violations which the staff has reported to the appropriate enforcement agency, shall be subject to an appeals process under the initial jurisdiction of the management committee. Appealable staff actions specifically include the assessment of civil penalties. Following receipt of a written "notice of appeal" from an appellant, the appeals process shall function as follows:

(1) Administrative review. An administrative review of all appeals and/or requests for review shall initially be conducted by the stormwater manager. The stormwater manager shall review the record of the situation and, if the stormwater manager is not satisfied that both of the following conditions have been met, the stormwater manager shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the stormwater manager, sought by the appellant:

(a) The matter under dispute has been handled correctly by the program staff under the applicable rules and procedures of the program.

(b) The matter under dispute has been handled fairly by the program staff and the appellant has not, in any way, been treated differently than other dischargers with similar circumstances.

If the stormwater manager determines that both subsections (a) and (b) immediately above have been satisfied, the stormwater manager shall notify the appellant in writing that no relief can be granted at the program staff level and that the appellant is free to pursue the appeal with the management committee. Such notification shall include instructions as to the proper procedure for bringing the matter before the committee. Notification shall be made by hand-delivery; verifiable facsimile transmission; or certified mail, return receipt requested. A copy of the notification shall be provided to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. The stormwater manager shall complete the review and issue an opinion within twenty (20) calendar days of the receipt of the appeal.

(2) Committee hearing. Appeals rejected by the stormwater manager, in accordance with the procedure outlined immediately above, may be brought before the management committee. Within thirty (30) calendar days of receipt of a notification of an appeal, the committee shall determine if the appeal is to be heard by the committee as a whole, if the matter is to be referred to a standing subcommittee, or if a new subcommittee is to be appointed specifically to hear the appeal. If a special committee is appointed, the officer presiding at the meeting of the management committee at which the special subcommittee

is appointed shall name a chair and vice chair for said subcommittee. Once the appropriate forum for the appeal is decided, a date and time for hearing the appeal shall be set. Such date and time shall be within fifteen (15) calendar days following the date of the management committee's initial considerations regarding the appeal.

(3) Hearing procedures. Appeal hearings shall be conducted in a formal and orderly manner. However, the hearing is not a "court of law" and the rules of evidence, testimony, and procedures for such courts shall not apply. The stormwater manager or his designee shall first brief the committee or subcommittee on the history of the situation, including the actions of the program staff leading up to the appeal. The appellant shall then present his or her arguments as to why the relief sought should be granted. The stormwater manager or his designee shall then have the opportunity to rebut or refute the appellant's arguments. The committee or subcommittee shall then conduct deliberations concerning the appeal in an open session. During such deliberations, the members may ask questions of and/or seek additional input from the appellant or the program staff to clarify the situation. At the close of these deliberations the committee or subcommittee shall vote to accept or reject the appeal or to adopt a modified position regarding the matter in question. The outcome of this vote shall be considered the final action of the program with regard to the appeal. The chair of the committee or subcommittee hearing the appeal shall prepare a written order reflecting the committee's or subcommittee's determination regarding the appeal. A tape recording, minutes, or other record of the hearing shall be made and maintained by the program staff.

(4) Appealing decisions of the management committee. Any appellant dissatisfied with the decision of the management committee, as described in the preceding subsection, may appeal the management committee's decision by filing an appropriate request for judicial review to the Chancery Court of Hamilton County.

18-313. Implementation schedule. (1) Discharge permit. The program is authorized under National Pollutant Discharge Elimination System (NPDES) Permit No. TNS075566 issued by the Tennessee Department of Environment and Conservation (TDEC), Division of Water Pollution Control, which expires February 26, 2008. It is anticipated that subsequent permits will be issued to the program under the same permitting authority. All applicable provisions of the current or any subsequent permit shall be enforceable by the program as if fully spelled out herein. Implementation of certain aspects of the program shall comply with the specific schedule included in the permit.

(2) Implementation schedule.

Description	Effective Date
Prohibition of Illicit Discharges (Ordinance Section (9))	January 1, 2006
Prohibition of the Release of Sediments and Erosion Products from a Land Disturbance Site (Ordinance Section (4), subsection (c))	January 1, 2006
Implementation of the Land Disturbance Permit Program (Ordinance Section (4))	January 1, 2008
Implementation of the Runoff Management Permit Program (Ordinance Section (5))	January 1, 2008
Implementation of the Non-Stormwater Discharge Permit Program (Ordinance Section (6))	January 1, 2008

18-314. Overlapping jurisdiction. The State of Tennessee, working through the Tennessee Department of Environment and Conservation (TDEC), is or may be required by federal regulations to address stormwater pollution issues in ways which appear to overlap the goals and requirements of the program described by this section. Where such overlaps occur and where TDEC's regulations and determinations are more restrictive, the TDEC regulations and determinations shall control.

A requirement to comply with TDEC regulations and determinations shall not, in any way, relieve any party from complying with the provisions of this section.

18-315. Violations and penalty. (1) Violations. Any person who shall commit any act declared unlawful under this section, who violates any provision of this section, who violates the provisions of any permit issued pursuant to this section, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action required by the program, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in *Tennessee Code Annotated*, § 68-221-1106, the program declares that any person violating the provisions of this section may be assessed a civil penalty by the program of not

less than fifty dollars ($50.00) and not more than five thousand dollars ($5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation. Applicable penalties for some specific violations are outlined in the enforcement protocol described in Appendix B[1] of this section.

(3) Measuring civil penalties. In assessing a civil penalty, the stormwater manager may consider:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary remedial or enforcement costs incurred by the program or any participating municipality;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalties in subsection (2) above, the program may recover:

(a) All damages proximately caused by the violator, which may include any reasonable expenses incurred in investigating violations of and enforcing compliance with this section, or any other actual damages caused by this violation.

(b) The costs of maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this section.

(5) Other remedies. The program or any participating municipality may bring legal action to enjoin the continuing violation of this section, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

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[1]Appendices to the stormwater ordinance can be found in the office of the recorder.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

CHAPTER 1

ELECTRICITY[1]

SECTION

19-101. To be furnished by Electric Power Board of Chattanooga.
Electricity shall be furnished for the city and its inhabitants by the Electric Power Board of Chattanooga. (2007 Code, § 19-101)

[1]Municipal code reference
Electrical code: title 12.

CHAPTER 2

GAS[1]

SECTION

19-201. To be furnished under franchise. Gas service shall be furnished for the city and its inhabitants under such franchise as the board of commissioners shall grant.[2] The rights, powers, duties, and obligations of the city, 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.[3] (2007 Code, § 19-201)

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[1]Municipal code reference
Gas code: title 12.

[2]For provisions of current gas franchises granted by the city, see ordinances no. 8 and 9 of record in the recorder's office.

[3]The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

CHAPTER 1

AIR POLLUTION CONTROL

SECTION

20-101. Adoption of the air pollution control code for Chattanooga-Hamilton County. There is hereby adopted by reference by the City of Soddy-Daisy, Tennessee, for the purpose of establishing basic rules, provisions, and regulations governing air pollution and air contaminations, the Air Pollution Control Code for Chattanooga-Hamilton County, as amended. (2007 Code, § 20-101, as amended by Ord. #2017-18-5, Oct. 2017)

20-102. Enforcement. This chapter shall be enforced by Chattanooga-Hamilton County personnel according to the provisions of the Air Pollution Control Code for Chattanooga-Hamilton County adopted by reference above. (2007 Code, § 20-102, as amended by Ord. #2017-18-5, Oct. 2017)

20-103. Violations and penalty. Violations of this chapter shall be punished according to the general penalty provisions set out in this municipal code of ordinances. (2007 Code, § 20-103, as amended by Ord. #2017-18-5, Oct. 2017)

CHAPTER 2

BIG SODDY CREEK GULF PARK REGULATIONS

SECTION

20-201. Park regulations, hours. (1) Park regulations. Visitors assume all risk and liability for any hazards or injury. The following regulations apply to the use of the park.

(a) ATVs, dirt bikes and any other motorized vehicles are prohibited. Only vehicles authorized by the city manager or his or her designee are allowed. To promote visitation by the disabled, handicapped, or elderly, the city will set one (1) day per month on a regular basis to authorize and allow vehicle access on a limited basis to the park when proper I.D. and verification of disabled status is presented or from persons sixty-five (65) years or older. The time, hours and day will be determined by the city manager and will be advertised by various means such as by website, flyers and/or signage. City staff will be present to provide access and to enforce all park regulations.

(b) Bicycling is allowed only on established road and trails.

(c) For the purpose of this section, "litter" is defined as garbage, refuse, junk, rubbish and all other waste material, whether organic or inorganic. No person shall deposit or leave litter in the park except in receptacles and in such a manner that the litter will be prevented from being carried, or deposited by the elements upon any part of the park or upon any other public place or private premises where receptacles are not provided. All such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner. If a receptacle is provided, it is unlawful to upset or tamper with the same, or to bring litter generated outside the park for disposition in the park receptacle.

(d) Removal of natural material—native plants, wood, rocks, minerals, artifacts or other such materials—is prohibited.

(e) Pets must be leashed. Pet owners are required to clean up after their pets.

(f) Hunting is prohibited. As the area is not fully secured and contiguous to private property, visitors should take precautions and proceed at their own risk during hunting season.

(g) Swimming is allowed at visitor's own risk. There are no lifeguards or other safety personnel present. Beware of shallow waters, swift currents and other associated dangers.

(h) No camping is permitted at this time.

(2) Alcohol, drugs, air rifles/pistol and paintball. Alcohol, drugs, air rifles/pistol and paintball are prohibited. Notices will be posted as provided in *Tennessee Code Annotated*, § 39-17-1315(b)(2).

(3) Hours. Hours are sunrise to sunset, and no person shall be in the park after dark.

(4) Violations unlawful. Violation of any of these regulations is unlawful and subject to the penalties for unlawful acts and omissions as provided by the Soddy-Daisy Municipal Code. (Ord. #2014-2015-2, Dec. 2014)

APPENDIX

A. PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF CITY OF SODDY-DAISY.

APPENDIX A

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF CITY OF SODDY-DAISY[1]

I. Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of City of Soddy-Daisy.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

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[1]This program plan is provided by Ord. #2002-2003-17, June 2003.

The City of Soddy-Daisy in electing to update and maintain an effective occupational safety and health program for its employees:

a. Provide a safe and healthful place and condition of employment.
b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.
f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.
h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. <u>Definitions</u>. For the purposes of this program, the following definitions apply:

a. "Commissioner of Labor and Workforce Development" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

b. "Employer" means the City of Soddy-Daisy and includes each administrative department, board, commission, division, or other agency of the City of Soddy-Daisy.

c. "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of City of Soddy-Daisy.

d. "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.

e. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.

f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

g. "Person" means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.

h. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

i. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm

immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

j. "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

k. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:

1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

l. "Act" or "TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.

m. "Governing body" means the County Quarterly Court, board of aldermen, board of commissioners, city or town council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.

n. "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable.

III. <u>Employer's rights and duties</u>. Rights and duties of the employer shall include, but are not limited to, the following provisions:

a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.

c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist

the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.

e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.

f. Employer is entitled to protection of its legally privileged communication.

g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.

h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.

i. Employer shall notify all employees of their rights and duties under this program.

IV. <u>Employee's rights and duties</u>. Rights and duties of employees shall include, but are not limited to, the following provisions:

a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the Act.

c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.

d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.

e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels

in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed or corrective action being taken.

f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.

g. Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.

h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.

i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.

k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence.

V. <u>Administration</u>. a. The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

1. The director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.

2. The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.

3. The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
4. The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.
5. The director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of section 1 of this plan.
6. The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
7. The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
8. The director shall maintain or cause to be maintained records required under section VIII of this plan.
9. The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.

b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.
2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.
3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix V of this plan.

VI. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under section VI(6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees.

VII. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

a. The application for a variance shall be prepared in writing and shall contain:
   1. A specification of the standard or portion thereof from which the variance is sought.
   2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
   3. A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
   4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
   5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to

petition the Commissioner of Labor and Workforce Development for a hearing.

b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.

c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

1. The employer:

i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.

ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.

iii. Has an effective program for coming into compliance with the standard as quickly as possible.

2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.

d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

e. Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.

f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. <u>Recordkeeping and reporting</u>. a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, <u>Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970</u>, (revised 2003) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.

b. The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix V to this plan.

c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix V to this plan.

IX. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of section 1 of this plan).

b. Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

d. The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.

e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related

correspondence with the director and the chief executive officer or the representative of the governing body.

f. Copies of all complaint and answers thereto will be filed by the director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. <u>Education and training</u>. a. <u>Director and/or compliance inspector(s)</u>.

1. Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.
2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All employees (including managers and supervisory personnel).

A suitable safety and health training program for employees will be established. This program will, at a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury (such as falls, electrocution, crushing injuries (e.g., trench cave-ins), and being struck by material or equipment).
2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements

contained in subparts H and M and other applicable subparts of TOSHAct standards (1910 and/or 1926).

5. Instruct employees on hazards and dangers of confined or enclosed spaces.
   i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
   ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
   iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. <u>General inspection procedures</u>. It is the intention of the governing body and the responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desire results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

a. In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:
   1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;

2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

g. Advance notice of inspections.

1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.

2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees of their authorized representative(s) will also be given notice of the inspection.

h. The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors of other personnel provided:

1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.

2. Records are made of the inspections and of any discrepancies found and are forwarded to the director.

i. The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. <u>Imminent danger procedures</u>.

a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

1. The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
2. If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.
5. The imminent danger shall be deemed abated if:
   i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
   ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
6. A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (i) of section XI of this plan.

b. Refusal to abate.
   1. Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.
   2. The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement.

XIII. Abatement orders and hearings.

a. Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:
   1. Issue an abatement order to the head of the worksite.
   2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

b. Abatement orders shall contain the following information:
   1. The standard, rule, or regulation which was found to violated.
   2. A description of the nature and location of the violation.
   3. A description of what is required to abate or correct the violation.
   4. A reasonable period of time during which the violation must be abated or corrected.

c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. Penalties.

a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.

b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the

duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:

1. Oral reprimand.
2. Written reprimand.
3. Suspension for three (3) or more working days.
4. Termination of employment.

XV. Confidentiality of privileged information. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. Compliance with other laws not excused.

a. Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN-APPENDIX I

ORGANIZATIONAL CHART

{For this section make a list of each work location wherein city employees work, such as City Hall, Water Plant, Police Department, City Garage, etc.), the address for the workplace, phone number at that workplace, and number of employees who work there.}

Example:

City Garage - 12 employees
1234 Main Street
Chattanooga, TN 37415
423-345-6789

Police Department - 25 employees
4567 Garden Avenue
Chattanooga, TN 37415
423-222-5555

TOTAL NUMBER OF EMPLOYEES: 37

{Once each work location has been listed, record the total number of employees that the city employs.}

City Hall - 7 employees
9835 Dayton Pike
Soddy-Daisy, TN 37379
423-332-5323

Custodian - 1 employee
Same address as City Hall

Public Works - 10 employees
2 part-time (seasonal)
Same address as City Hall

Police Department - 25 employees
3 part-time
9835 Dayton Pike
Soddy-Daisy, TN 37379
423-332-3577

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN APPENDIX III

NOTICE TO ALL EMPLOYEES OF CITY OF SODDY-DAISY

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as state standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage, of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director or department head.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the director for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the employees of City of Soddy-Daisy is available for inspection by any employee at city hall during regular office hours.

s/Janice Cagle 7/2/03

Signature: Official Date

OCCUPATIONAL SAFETY AND HEALTH PLAN

APPENDIX IV

PROGRAM BUDGET

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities).
7. Protective clothing and equipment (personnel).
8. Safety and health instruments.
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the program.
11. Contingencies and miscellaneous.

TOTAL ESTIMATED PROGRAM FUNDING:

ESTIMATE OF TOTAL BUDGET FOR:

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

ACCIDENT REPORTING PROCEDURES

Note: All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported by phone to the Commissioner of Labor and Workforce Development within eight (8) hours.

There are six important steps required by the OSHA recordkeeping system:

1. Obtain a report on every injury/illness requiring medical treatment (other than first aid).
2. Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
3. Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on worker's compensation reports giving the same information.
4. Every year, prepare the annual summary (OSHA Form No. 300A); post it no later than February 1, and keep it posted until April 30.
5. Retain these records for at least 5 years.
6. Complete the Survey of Occupational Injuries/Illness and mail it to Labor Research and Statistics, when requested.

The four (4) procedures listed below are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

(1-15) Employees shall report all accidents, injuries, or illnesses directly to the Director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

(16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours

after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

(51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the Director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with assistance of the Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.

(51-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head is to be notified of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since a Workers' Compensation Form C20 or OSHA NO. 301 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 6 listed under **PROGRAM PLAN** in Chapter IV, Part IV of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the **one** procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation.

2022-2023 ORDINANCE NO. 3

AN ORDINANCE OF THE CITY OF SODDY-DAISY, TENNESSEE, ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY.

WHEREAS, some of the ordinances of the City of Soddy-Daisy are obsolete, and

WHEREAS, some of the other ordinances of the City are inconsistent with each other or are otherwise inadequate, and

WHEREAS, the Board of Commissioners of the City 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 "Soddy-Daisy Municipal Code."

NOW, THEREFORE BE IT ORDAINED by the City of Soddy-Daisy, as follows:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Soddy-Daisy Municipal Code," hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the Municipal Code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgement 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 or de-annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty." Each day any violation of the municipal code continues shall constitute a separate civil offense. (State law reference - For authority to allow deferred payment of fines, or payment by installments, see TCA § 40-24-101 et seq.)

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The Board of Commissioners, by motion or Resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. **Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. **Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. **Date of effect.** This ordinance shall take effect no sooner than fifteen (15) days after first passage thereof, provided that it is read two (2) different days in open session before its adoption, and not less than one week elapses between first and second readings, the welfare of the city requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

MAYOR RICK NUNLEY

RECORDER BURT JOHNSON

PASSED ON FIRST READING October 6, 2022
PASSED ON SECOND READING October 20, 2022

APPROVED AS TO FORM:

CITY ATTORNEY SAM ELLIOTT