

**THE
SURGOINSVILLE
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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TOWN OF SURGOINSVILLE, TENNESSEE

MAYOR

Johnny Greer

VICE MAYOR

Tim Hoss

ALDERMEN

Ralph Bass

Merrell Graham

Bobby Jarnagin

John Sandidge

Don Thurman

RECORDER/CLERK

Sherry Minor

PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the town agrees to 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: Hannah Kraemer, Program Resource Specialist; and Linda Winstead, Nancy Gibson, and Doug Brown, Administrative Specialists, is gratefully acknowledged.

Steve Lobertini
Codification Consultant

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

1. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted on one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)

2. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

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

¹Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN¹

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Wards.
- 1-105. Number and election of commissioners and mayor.
- 1-106. Date of elections and terms of office.
- 1-107. Quorum.

1-101. Time and place of regular meetings. During the months of Daylight Saving Time, the board of mayor and aldermen shall hold regular monthly meetings at 7:30 P.M. on the second Monday of each month at the town hall. During the remainder of the of the year the meeting time shall be 7:00 P.M. (1992 Code, § 1-101)

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

- (1) Call to order by the mayor;
- (2) Roll call by the recorder;

¹Charter references

For charter provisions related to the board of mayor and aldermen, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the board of mayor and aldermen, see the following sections:

- City Administrator: § 6-4-101.
- Compensation: § 6-3-109.
- Duties of Mayor: § 6-3-106.
- Election of the board: § 6-3-101.
- Oath: § 6-3-105.
- Ordinance procedure
 - Publication: § 6-2-101.
 - Readings: § 6-2-102.
- Residence requirements: § 6-3-103.
- Vacancies in office: § 6-3-107.
- Vice-Mayor: § 6-3-107.

- (3) Reading of minutes of the previous meeting by the recorder, and approval or correction;
- (4) Grievances from citizens;
- (5) Communications from the mayor;
- (6) Reports from committees, members of the board of mayor and aldermen, and other officers;
- (7) Old business;
- (8) New business;
- (9) Adjournment. (1992 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1992 Code, § 1-103)

1-104. Wards. (1) The municipality shall consist of one (1) ward.
 (2) For the purpose of holding municipal elections, only one polling place shall be used, which shall be the polling place designated by the Hawkins County Election Commission for the purpose of holding general elections. (1992 Code, § 1-104)

1-105. Number and election of commissioners and mayor. (1) The officers of the municipality shall consist of a mayor and six (6) aldermen, who shall be elected at large from the municipality. Of the candidates for mayor, the person receiving the largest number of votes shall be elected. Of the candidates for alderman, the six (6) persons receiving the largest number of votes shall be elected. In case of a tie for the office of mayor and/or alderman, a run-off election shall be held.

(2) The terms of the mayor and aldermen elected on the 12th day of January, 1991 shall be extended to the date of the regular general election in November, 1994, which date is the first Tuesday after the first Monday in November, 1994, or until their successors are elected and qualified.

(3) At the municipal election held on the first Tuesday after the first Monday in November, 1994:

(a) The mayor shall be elected for a term of four (4) years, or until his successor is elected and qualified;

(b) The three aldermen receiving the highest number of votes shall be elected for terms of four (4) years or until their successors are elected and qualified; and

(c) The three aldermen receiving the lowest number of votes shall be elected for terms of two (2) years or until their successors are elected and qualified.

(4) At each and every municipal election following the election held on the first Tuesday after the first Monday in November, 1994, the terms of the mayor and/or the aldermen elected to office in that particular election shall be four (4) years or until their successors are elected and qualified. (1992 Code, § 1-105)

1-106. Date of elections and terms of office. An election for the offices of mayor and aldermen of the municipality shall be held in conjunction with the general election as set by the Hawkins County Election Commission. The officers elected shall serve for a term of four (4) years and until their successors are duly elected. (1992 Code, § 1-106)

1-107. Quorum. At any meeting of the board of mayor and aldermen, a majority of the members shall constitute a quorum, which shall be required for the transaction of business. (1992 Code, § 1-107)

CHAPTER 2

MAYOR¹

SECTION

1-201. Mayor to run day to day business.

1-202. Executes town's contracts.

1-203. Voting rights.

1-204. Purchasing limits.

1-201. Mayor to run day to day business. The Mayor of the Town of Surgoinsville shall run the day to day business, with extreme actions to be done on a temporary basis, also noting any insubordination by employees could be grounds for immediate dismissal, until the next scheduled meeting of the board of mayor and aldermen. (Ord. #43-2005, Jan. 2005)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1992 Code, § 1-202)

1-203. Voting rights. The mayor shall have a right to vote on matters before the board. (1992 Code, § 1-203)

1-204. Purchasing limits. The mayor shall not make major purchases in excess of five hundred dollars (\$500.00) until a vote is taken by the board of mayor and aldermen. (Ord. #43-2005, Jan. 2005)

¹Charter references

For charter provisions related to the mayor, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the mayor, see the following sections:

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

CHAPTER 3

RECORDER¹

SECTION

- 1-301. To be bonded.
- 1-302. To keep minutes, etc.
- 1-303. To perform general administrative duties, etc.
- 1-304. Appointment.
- 1-305. Ordinance numbering, etc.

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and aldermen. (1992 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1992 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers. (1992 Code, § 1-303)

1-304. Appointment. The recorder shall be appointed by the board of mayor and aldermen for an indefinite term, serving at the will and pleasure of the board. (1992 Code, § 1-304)

1-305. Ordinance numbering, etc. Ordinances having their final readings and/or first considered in a meeting held in and after the year 2000 A.D. will be assigned a consecutive number by the town recorder beginning with the number, 0-2001, and thereafter the numbers in order. Proposed ordinances will be referred to in the minute book by the assigned caption. Those proposed ordinances that have passed first reading will likewise be referred to by their caption. Those ordinances which have passed on two (2) separate readings and review by the board of mayor and alderman will be assigned the appropriate

¹Charter references

City recorder: § 6-4-201 et seq.

Recorder as treasurer: § 6-4-401(c).

number by the recorder at the conclusion of the voting. (Ord. #10-2001, Sept. 2001)

CHAPTER 4

DELEGATED DUTIES

SECTION

- 1-401. Recorder to perform administrative duties.
- 1-402. Recorder to fill position of treasurer.
- 1-403. Recorder as purchasing agent.
- 1-404. Finance director to prepare annual budget.
- 1-405. Board of mayor and aldermen to manage personnel.
- 1-406. Maintenance and street superintendents' duties.
- 1-407. Public safety officer's duties.
- 1-408. Public relations officer's duties.
- 1-409. Recreation officer to act as liaison.

1-401. Recorder to perform administrative duties. The administrative duties set forth in Tennessee Code Annotated, § 6-4-101, shall be performed by the recorder. (1992 Code, § 1-401)

1-402. Recorder to fill position of treasurer. The recorder shall also fill the position of treasurer for the Town of Surgoinsville. (1992 Code, § 1-402)

1-403. Finance director to prepare annual budget. The finance director shall prepare and submit the annual budget and capital program to the board for its adoption by ordinance. (1992 Code, § 1-404)

1-404. Board of mayor and aldermen to manage personnel. The board of mayor and aldermen shall employ, promote, discipline, suspend, and discharge all employees and department heads, in accordance with personnel policies and procedures, if any are adopted by the board of mayor and aldermen. (1992 Code, § 1-405)

1-405. Maintenance and street superintendents' duties. The maintenance and street superintendents shall oversee all functions of the maintenance and street departments. (1992 Code, § 1-406)

1-406. Public safety officer's duties. The public safety officer shall be responsible for reporting all street light problems as well as other areas of concern involving general public safety. (1992 Code, § 1-407)

1-407. Public relations officer's duties. The public relations officer shall oversee matters concerning the betterment of relations of the Town of Surgoinsville with the general public. (1992 Code, § 1-408)

1-408. Recreation officer to act as liaison. The recreation officer shall act as liaison between board of mayor and aldermen and parks and recreation organization. (1992 Code, § 1-409)

CHAPTER 5

CODE OF ETHICS¹

SECTION

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

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

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

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

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

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

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

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

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

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

1-510. Ethics complaints.

1-511. Violations.

1-501. Applicability. This chapter is the code of ethics for personnel of the Town of Surgoinsville. 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 town. The words "municipal" and "Town of Surgoinsville" include these separate entities. (Ord. #61-2007, May 2007)

1-502. Definition of "personal interest." (1) For the purposes used hereafter, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #61-2007, May 2007)

1-503. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (Ord. #61-2007, May 2007)

1-504. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects

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

or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #61-2007, May 2007)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #61-2007, May 2007)

1-506. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #61-2007, May 2007)

1-507. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the town board of mayor and aldermen to be in the best interests of the town. (Ord. #61-2007, May 2007)

1-508. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the town.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the town. (Ord. #61-2007, May 2007)

1-509. Outside employment. A full-time employee of the town may not accept any outside employment without written authorization from the mayor. (Ord. #61-2007, May 2007)

1-510. Ethics complaints. (1) The town attorney is designated as the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town 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 town 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 town attorney may request the town board of mayor and aldermen to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the town board of mayor and aldermen, the town board of mayor and aldermen 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 town board of mayor and aldermen determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the town board of mayor and aldermen.

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #61-2007, May 2007)

1-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the town's charter or other applicable law, and in addition is subject to censure by the town board of mayor and aldermen. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #61-2007, May 2007)

TITLE 2**BOARDS AND COMMISSIONS, ETC.****CHAPTER****1. RECREATION BOARD.****CHAPTER 1****RECREATION BOARD****SECTION**

- 2-101. Establishment of organization and purpose.
- 2-102. Membership of the Surgoinsville Recreation Board.
- 2-103. Charge and responsibilities of the board.
- 2-104. Election of officers and their duties.
- 2-105. Meetings of the Surgoinsville Recreation Board.
- 2-106. Regulatory authority of the board.
- 2-107. Director's position.
- 2-108. Swimming activities and pool exempted.

2-101. Establishment of organization and purpose. The Surgoinsville Recreation Board (S.R.B.), is hereby established. The purpose of this supplementary organization will be to plan, develop funding, and carry out recreational activities and programs for the town. Additionally it will maintain, and whenever possible, improve facilities and equipment entrusted to its care. The organization will be governed by the board of commissioners appointed by the Board of Mayor and Aldermen of the Town of Surgoinsville. (Ord. #18-2002, Aug. 2002)

2-102. Membership of the Surgoinsville Recreation Board. The board of commissioners of the Surgoinsville Recreation Board shall be composed of five (5) members, residents of the general community of Surgoinsville. One (1) member will be appointed, and four (4) members elected by the board of mayor and aldermen. This will compose the full Surgoinsville Recreation Board. Thereafter, at the July meeting of the board of mayor and aldermen, new elections will be held to fill expiring terms on the Surgoinsville Recreation Board.

(1) The first member of the S.R.B. shall be a member of the board of mayor and aldermen of the town and this person shall serve concurrently with his term of office and shall be appointed by the mayor, with the consent of the remaining members of the board of mayor and aldermen.

(2) The remaining members will be elected to the S.R.B. by the board of mayor and aldermen by recorded open vote, with two (2) individuals receiving

the greatest number of votes to serve four (4) year terms, and the next two (2) highest votes getting to serve two (2) year terms.

(3) One (1) member of the board may be a full-time employee of the Hawkins County Board of Education to represent the school system's interests on the board.

(4) The Mayor of Surgoinsville may, with the consent of the board of mayor and aldermen, remove any member of the S.R.B. for misconduct or neglect of duty.

(5) Vacancies occasioned by removal, resignation, or otherwise, shall be reported to the board of mayor and aldermen and shall be filled in like manner as the original appointments, except that the length of time of the appointment shall be restricted to the unexpired term of the vacated office. (Ord. #18-2002, Aug. 2002)

2-103. Charge and responsibilities of the board. (1) The Surgoinsville Recreation Board shall have the following general duties and responsibilities:

(a) Be responsible for the supervision and care of the recreational facilities of the town.

(b) Appoint all Surgoinsville recreation employees, except as provided in § 2-107, and determine their functions, duties and salaries.

(c) Determine the recreation programs to be provided to the community through open meetings and citizen input and interpret the needs and desires of the community of such programs.

(d) Periodically evaluate:

(i) The acquisition and progress of development programs.

(ii) The effectiveness of existing recreation programs.

(iii) The level of maintenance of various park areas.

(iv) The quality of work provided by employees responsible to the Surgoinsville Recreation Board.

(e) Aid in coordinating the recreational services and programs of their agencies, both public and private, that provide recreation opportunities in the community.

(f) Accept or reject after due consideration all private donations in any form in accordance with that which the board believes in the best interest of the citizens of Surgoinsville.

(g) No member of the Surgoinsville Recreation Board and no member of the Surgoinsville Board of Mayor and Aldermen shall receive compensation as such.

(h) Report periodically to the board of mayor and aldermen the status and progress of the endeavor.

(i) No member of the Surgoinsville Board of Mayor and Aldermen or the Surgoinsville Recreation Board shall be allowed to be head coach of a ball team.

(2) The Surgoinsville Recreation Board shall have the following financial charge and responsibilities:

(a) The board shall prepare and present to the board of mayor and aldermen, for approval, a proposed annual budget for revenues and expenditures sufficient to support the coming fiscal year's recreational programs and activities, for upkeep of equipment and facilities, and other items the Surgoinsville Recreation Board feels necessary to achieve the purposes of the organization. This proposed budget may request an allocation from the town's general fund to help meet these needs. The Surgoinsville Recreation Budget shall be submitted to the recorder's office one (1) week before the March meeting of the board of mayor and aldermen.

(b) At the same time the S.R.B. shall submit to the board of mayor and aldermen a proposed budget for capital improvements for the parks and recreation facilities of the town, and may request an allocation from the general fund sufficient to provide for these needs as planned, or suggest other funding means.

(c) The Surgoinsville Recreation Board of Commissioners shall have exclusive control of the expenditures of all monies collected, and for those monies approved for deposit to the recreation fund by the board of mayor and aldermen.

(d) The board shall insure that all cash, checks, etc. received are deposited to the proper accounts within three (3) working days. Petty cash or "change" funds of one hundred dollars (\$100.00) or less are exempted from this requirement. Bank statement reconciliations should be completed each month by the recorder's office or by the Surgoinsville Recreation officer who does not sign the checks. (Ord. #18-2002, Aug. 2002)

2-104. Election of officers and their duties. (1) Annually, upon the appointment of new members, the board shall elect from their membership a president, vice-president, treasurer and secretary. Additional officers may be elected as required. The president can serve no more than two (2) consecutive years at a time.

(2) The president shall preside at all meetings of the board and at general meetings of the organization. The president shall appoint all committees, represent the organization at public affairs, and shall maintain the dignity and respect of the Surgoinsville Recreation in all possible ways. This person shall perform the other duties ordinarily performed by a chief operating officer.

(a) The president, or his designated representative, shall present to the board of mayor and aldermen a written annual report. Such report shall be presented at the first board of mayor and aldermen meeting in July of each year, and shall consist of:

(i) The condition of the Surgoinville Recreation trust as of the last day of June of that year.

(ii) The various sums of money received by the Surgoinville Recreation fund from donors and other sources.

(iii) The sums of money expended by the board and for what purpose.

(iv) A report of an annual review of the records of income and expenses of the park board, after examination by an independent accountant.

(v) All such portions of the report as related to the receipt and expenditure of money shall be verified by affidavits.

(3) The vice-president of the board in the absence of the president shall perform all the duties of the president. The vice-president shall be charged with the responsibility to see that all standing and temporary committees function as planned by the board.

(4) The treasurer shall perform the duties of the president if the president and the vice-president are not present. This officer shall oversee the financial endeavors of the organization. A financial status report will be prepared by this officer for each regular meeting of the board. He shall disburse monies as approved by the board, aid the president in preparing the annual and other requested reports, and arrange for the accountant's review.

(5) The secretary shall be responsible for correspondence, and other communications including getting information to the public regarding Surgoinville Recreation plans and activities. (Ord. #18-2002, Aug. 2002)

2-105. Meetings of the Surgoinville Recreation Board. (1) Regular open public meetings of the Surgoinville Recreation Board shall be held once each month during the year unless otherwise agreed upon by the board, and proper notice of this change is given to the city recorder. The date and time of these meetings shall be established by the board at their August meeting, but may be changed from time to time by a majority vote of the full board. Special meetings may be called by the president, park director, the Mayor of Surgoinville, or by written request of at least two (2) members of the Surgoinville Recreation Board.

(2) The first regular meeting in August of each year shall be called the organizational meeting. At this meeting the outgoing Surgoinville Recreation Board will present the annual report, and conduct other business that may be necessary. A part of this meeting shall be devoted to the election and installation of the new fiscal year's president, vice-president, treasurer, secretary, and other officers as required.

(3) Meetings shall be conducted in accordance with Roberts Rules of Order, Revised. The only exception is that the presiding officer shall have the right to vote on any matter considered.

(4) A quorum for the purpose of lawfully conducting business will be three (3) members of the recreation board present and voting.

(5) The following shall be the normal order of business for regular meetings of the Surgoinsville Recreation Board, but the rules of order may be suspended by majority vote and any matters considered or postponed by action of the board.

Order of business:

- (a) Call to order;
- (b) Roll call;
- (c) Reading and approval of minutes of the last meeting;
- (d) Reading and approval of financial report;
- (e) Committee reports;
- (f) Unfinished business and new business;
- (g) Recognition of visitors.
- (h) Adjournment. (Ord. #18-2002, Aug. 2002)

2-106. Regulatory authority of the board. (1) The Board of Commisisoners of the Surgoinsville Recreation shall have the authority to establish rules and regulations for any recreational area owned, leased, and/or operated for these purposes for the Town of Surgoinsville. Pursuant to this regulatory authority the board may establish hours of operation and curfew of said recreation areas as well as rules of behavior within said areas. These rules and regulations shall be posted at the recreation areas and copies of the same filed at town hall.

(2) Violation of the Surgoinsville Recreation rules and regulations shall be punishable by a fine not to exceed fifty dollars (\$50.00) for each incident, and shall be tried in town court pursuant to the provisions of title 3, chapter 1, of the Surgoinsville Municipal Code. (Ord. #18-2002, Aug. 2002)

2-107. Director's position. (1) There is hereby created the office of the Director of the Surgoinsville Recreation. Said director may be hired by the Surgoinsville Recreation Board with and subject to the approval of the Board of Mayor and Aldermen of Surgoinsville. The term of employment of the director shall be concurrent with the term of office of the mayor. This position may be a part-time or full-time job.

(2) The Surgoinsville Recreation Board and board of mayor and aldermen shall consider experience, training, and education of the applicants for the position of director in their deliberations prior to the appointment of the director.

(3) The Surgoinsville Recreation Director shall have the following duties and responsibilities:

(a) The general oversight and day to day administration of the municipal recreation system.

(b) The director shall carry out the mandate of the Surgoinsville Recreation Board pursuant to their authority as heretofore set out in this chapter.

(c) Supervise and direct the daily activities of all employees of the municipal recreation system.

(d) Formulate plans for the development of new programs for the municipal recreation system to be considered by the Surgoinsville Recreation Board and the board of mayor and aldermen. (Ord. #18-2002, Aug. 2002)

2-108. Swimming activities and pool exempted. The administration and operation of the town pool and its facilities are specifically exempted from the responsibilities of the Surgoinsville Recreation at this time. (Ord. #18-2002, Aug. 2002)

TITLE 3
MUNICIPAL COURT

CHAPTER

1. TOWN COURT.
2. FINES AND COSTS.

CHAPTER 1

TOWN COURT¹

SECTION

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

3-101. Town judge. (1) Appointment and term. The town judge designated by the charter to handle judicial matters within the town shall be appointed by the board of mayor and aldermen for a term of four (4) years, or until the next regular town election to fill vacancies in the office of mayor and/or aldermen next following the appointment of the town judge, whichever period is shorter. Vacancies in the office of the town judge arising from resignation, disqualification, or for any other reason whatsoever, shall be filled in the same manner and for the same term prescribed for the appointment of the town judge.

(2) Qualifications. The town judge shall be a minimum of thirty (30) years of age, be licensed by the State of Tennessee to practice law, and be a resident of Hawkins County. If the town judge for any reason no longer maintains his domicile in Hawkins County after appointment, such removal of domicile shall automatically create a vacancy in the office of town judge.

¹Charter reference
Town court: § 6-4-301.

(3) **Judge pro tem.** During the absence of the town judge from his duties for any reason for more than ninety (90) days, or at any time the office of the town judge is vacant, the board of mayor and aldermen may appoint a town judge pro term to serve until the town judge returns to his duties or the office of town judge is no longer vacant. The town judge pro tem shall have all the qualifications required, and powers, of the town judge. (1992 Code, § 3-101)

3-102. Maintenance of docket. The town judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (1992 Code, § 3-102)

3-103. Issuance of arrest warrants.¹ The town judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1992 Code, § 3-103)

3-104. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1992 Code, § 3-104)

3-105. Issuance of subpoenas. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1992 Code, § 3-105)

3-106. Appearance bonds authorized. When the town judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending

¹State law reference

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

disposition of his case, be allowed to post an appearance bond with the town judge or, in the absence of the judge, with the town court clerk, or in the absence of the town court clerk, with the ranking police officer on duty at the time, provided such alleged offender is not under the influence of alcohol or drugs. (1992 Code, § 3-106)

3-107. Imposition of fines, penalties, and costs. All fines, penalties, and costs shall be imposed and recorded by the town judge on the town court docket in open court.

In all cases heard or determined by him, the town judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases. (1992 Code, § 3-107)

3-108. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days² next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1992 Code, § 3-108)

3-109. Bond amounts, conditions, and forms. An appearance bond in any case before the town court shall be in such amount as the town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town court at the stated time and place. An appeal bond in any case shall be in such sum as the town judge shall prescribe, not to exceed the sum of two hundred and fifty dollars (\$250.00), and shall be conditioned that if the circuit court shall find against the appellant the fine 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. (1992 Code, § 3-109)

3-110. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the town judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the town. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1992 Code, § 3-110)

¹State law reference

Tennessee Code Annotated, § 8-21-401.

²State law reference

Tennessee Code Annotated, § 27-5-101.

3-111. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1992 Code, § 3-111)

CHAPTER 2

FINES AND COSTS

SECTION

3-201. Town of Surgoinsville schedule of fines and costs.

3-202. Penalty.

3-201. Town of Surgoinsville schedule of fines and costs.

OFFENSE	FINE	STATE LITIGATION TAX	MUNICIPAL COURT COSTS	TOTAL
Address violation on license	\$ 5.00	\$ 13.75	\$ 46.25	\$ 65.00
Assault on officer	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Breach of peace	\$ 45.00	\$ 13.75	\$ 46.25	\$105.00
Child restraint violation	\$ 25.00	\$ 13.75	\$ 46.25	\$ 85.00
Consumption under 21	\$ 40.00	\$ 13.75	\$ 46.25	\$100.00
Destroying town property (+replacement of property)	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Dog ordinance violation (1 st offense)	\$ 20.00	\$ 13.75	\$ 46.25	\$ 80.00
Dog ordinance violation (2 nd offense)	\$ 35.00	\$ 13.75	\$ 46.25	\$ 95.00
Dog ordinance violation (3 rd offense)	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Driving without license	\$ 25.00	\$ 13.75	\$ 46.25	\$ 85.00
Compliant			\$ 46.25	\$ 46.25
Driving while license is suspended or revoked	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Failure to stop for blue lights	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Failure to yield causing an accident	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Failure to yield	\$ 25.00	\$ 13.75	\$ 46.25	\$ 85.00
Following too close	\$ 25.00	\$ 13.75	\$ 46.25	\$ 85.00
Following too close causing an accident	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Going armed	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Illegal parking (1 st offense)	\$ 1.00	\$ 13.75	\$ 46.25	\$ 61.00

OFFENSE	FINE	STATE LITIGATION TAX	MUNICIPAL COURT COSTS	TOTAL
Illegal parking (2 nd offense)	\$ 15.00	\$ 13.75	\$ 46.25	\$ 75.00
Illegal parking (3 rd offense)	\$ 35.00	\$ 13.75	\$ 46.25	\$ 95.00
Illegal parking (4 th offense and each thereafter)	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Improper passing	\$ 35.00	\$ 13.75	\$ 46.25	\$ 95.00
Interfering with an officer	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Littering or disturbing trash containers	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Plus cost of clean-up		\$ 13.75		
Light law violation	\$ 25.00	\$ 13.75	\$ 46.25	\$ 85.00
With repair		\$ 13.75	\$ 46.25	\$ 60.00
Open beer/whiskey	\$ 35.00	\$ 13.75	\$ 46.25	\$ 95.00
Ordinance violation (unless specified)	\$ 35.00	\$ 13.75	\$ 46.25	\$ 95.00
Other state violations	\$ 35.00	\$ 13.75	\$ 46.25	\$ 95.00
Passing stop sign	\$ 35.00	\$ 13.75	\$ 46.25	\$ 95.00
Passing stop sign causing an accident	\$ 40.00	\$ 13.75	\$ 46.25	\$100.00
Possession drug paraphernalia	\$ 45.00	\$ 13.75	\$ 46.25	\$105.00
Posting of signs	\$ 25.00	\$ 13.75	\$ 46.25	\$ 85.00
Proof of insurance required	\$ 35.00	\$ 13.75	\$ 46.25	\$ 95.00
Compliant		\$ 13.75	\$ 46.25	\$ 60.00
Public intoxication (+15.00 p/day jail fee)	\$ 35.00	\$ 13.75	\$ 46.25	\$ 95.00
Reckless driving	\$ 50.00	\$ 13.75	\$ 46.25	\$110.00
Registration violation	\$ 25.00	\$ 13.75	\$ 46.25	\$ 85.00
Compliant		\$13.75	\$ 46.25	\$ 60.00
Resisting arrest	\$ 45.00	\$13.75	\$ 46.25	\$105.00

OFFENSE	FINE	STATE LITIGATION TAX	MUNICIPAL COURT COSTS	TOTAL
Seat belt violation	\$ 10.00	\$13.75	\$ 46.25	\$ 70.00
Speeding:			\$ 46.25	\$ 46.25
1-9 MPH over	\$ 10.00	\$13.75	\$ 46.25	\$ 70.00
10-19 MPH over	\$ 25.00	\$13.75	\$ 46.25	\$ 85.00
20-29 MPH over	\$ 35.00	\$13.75	\$ 46.25	\$ 95.00
30 MPH and over	\$ 50.00	\$13.75	\$ 46.25	\$110.00
Suspended license violation	\$ 50.00	\$13.75	\$ 46.25	\$110.00
Trespassing	\$ 35.00	\$13.75	\$ 46.25	\$ 95.00
Window tint violation	\$ 25.00	\$13.75	\$ 46.25	\$ 85.00

(Ord. #23-2002, Dec. 2002)

3-202. Penalty. Any person violating any provisions of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of up to fifty dollars (\$50.00) for each offense. Each occurrence shall constitute a separate offense. (Ord. #23-2002, Dec. 2002)

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER**

1. SOCIAL SECURITY.
2. PERSONNEL REGULATIONS.
3. SAFETY POLICY.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1**SOCIAL SECURITY****SECTION**

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

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this town to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (1992 Code, § 4-101)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1992 Code, § 4-102)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1992 Code, § 4-103)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1992 Code, § 4-104)

4-105. Records and reports. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1992 Code, § 4-105)

4-106. Exemption from coverage. There is hereby exempted from this chapter any authority to make any agreement with respect to any position, any employee or official not authorized to be covered by applicable state and federal laws or regulations. (1992 Code, § 4-106)

CHAPTER 2

PERSONNEL REGULATIONS

SECTION

- 4-201. Purpose.
- 4-202. Personnel rules and regulations.
- 4-203. Records.
- 4-204. Right to contract special services.
- 4-205. Discrimination.
- 4-206. Amendments.

4-201. Purpose. The purpose of this chapter is to establish a system of personnel administration in the Town of Surgoinsville that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal work force through the impartial application of personnel policies and procedures free of personal and political considerations and regardless of race, sex, age, creed, national origin or handicapping condition. (1992 Code, § 4-201)

4-202. Personnel rules and regulations. The board of mayor and aldermen shall adopt by resolution a set of personnel rules and regulations. (Ord. #24-2002, Dec. 2002)

4-203. Records. The mayor, or his designee, shall maintain adequate records of the employment record of every employee as specified herein. (1992 Code, § 4-204)

4-204. Right to contract special services. The board of mayor and aldermen may direct the mayor to contract with any competent agency for the performance of such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (1992 Code, § 4-205)

4-205. Discrimination. No person in the classified service, or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color, creed, national origin, sex, ancestry, age, or religious belief. (1992 Code, § 4-206)

4-206. Amendments. Amendments or revisions to the personnel rules and regulations may be recommended for adoption by the town administrator, the mayor, or any member of the board of mayor and aldermen. Such

amendments or revisions shall become effective after passage of an appropriate resolution. (Ord. #24-2002, Dec. 2002)

CHAPTER 3

SAFETY POLICY

SECTION

- 4-301. Authority/responsibility for safety.
- 4-302. Safety committee.
- 4-303. General safety rules.
- 4-304. New employee safety orientation.
- 4-305. Continuing safety education.
- 4-306. Maintaining a safe workplace.
- 4-307. Providing a healthful workplace.
- 4-308. Medical treatment for work-related injuries/illnesses.
- 4-309. Motor vehicle accident investigation procedures.

4-301. Authority/responsibility for safety. Basic safety responsibility is a function of management, supervisors, and the individual employee. Each individual employee has the responsibility to ensure that the safety requirements associated with their job are followed. If the safety requirements cannot be followed, each individual employee has the authority to not perform the assignment until his or her supervisor has provided a method for accomplishing the task safely.

(1) Management. (a) Responsibility. The mayor and department heads are responsible for providing a safe and healthful workplace free from recognized hazards which may cause serious injury. It is his/her responsibility to participate in safety activities; set the proper example for employees by following appropriate safety rules and procedures; encourage employees to follow safety rules and procedures; and effectively enforce safety rules and procedures.

(b) Authority. The mayor has the authority to provide a safe and healthful workplace by using town resources to do what is reasonable to properly protect people, property, and the environment.

(2) Department heads. (a) Responsibility. All department heads are responsible for assuring that their assigned employees perform their assignments in a safe manner by following the specified safety rules and procedures. They are to accomplish this by:

(i) Providing the necessary tools, equipment and facilities necessary to perform the job safely.

(ii) Providing the necessary rules and procedures for assigned tasks.

(iii) Educating and training employees concerning job safety rules and procedures.

(iv) Routinely inspecting workplaces to detect potential safety hazards so effective corrective action can be taken.

- (v) Enforcing safety rules and procedures.
- (vi) Complete all forms and notification for all accidents and near misses appropriately.
- (vii) Schedule accident review meetings within five (5) working days of any accidents. The safety director, appointed alderman, department heads and the employee involved in the accident are to attend.

(b) Authority. Each department head has the authority to assure that his/her assigned employees are provided the necessary tools, equipment, facilities, rules and procedures, education and training, to perform their job duties safely. They are authorized to routinely inspect their workplace and correct any defects observed. Each department head has the authority and is held accountable for enforcing safety rules and procedures.

(3) Employees. (a) Responsibility. All employees are responsible for performing their job duties in a safe manner by following the specified safety rules and procedures. Each employee must:

- (i) Not perform jobs unless he/she has been authorized to perform them and has been properly trained.
- (ii) Wear the prescribed personal protective equipment.
- (iii) Review each assignment prior to performing it to ensure it can be performed safely.
- (iv) Must not perform jobs unless they can be performed safely.

(b) Authority. Each employee has the responsibility and authority to follow the safety rules and procedures pertaining to his or her job. (Ord. #06-2007, May 2007)

4-302. Safety committee. The Town of Surgoinsville has established and maintains a safety program that is designed to protect people, property, the environment, and comply with all applicable federal laws This objective is accomplished, in part, through the use of a safety committee with representation from every department of town government. The safety committee is responsible for the following activities:

- (1) Safety activities. To oversee the entire safety program and ensure that the program is pertinent, interesting, and effective.
- (2) Rules and procedures. To assure that safety rules and procedures are maintained and effectively communicated to all department heads and employees.
- (3) Education and training. To assure that existing and new employees are effectively trained to perform their assigned jobs in a safe manner.
- (4) Inspections and audits. To assure that effective quarterly inspections and audits are conducted to achieve a safe and healthful work environment.

(5) Fire and emergency. To insure that effective fire and emergency procedures are established and maintained to protect personnel and property.

(6) Health and environment. To assure a safe and healthful environment where employees and others are properly protected from potential injuries and illnesses associated with chemicals, fumes, dusts, noise, ergonomic problems and other health and environmental hazards.

(7) Accident investigation. To assure that the basic causes of accidents are properly identified and effective control measures are taken to prevent recurrence.

(8) Housekeeping. To assure proper workplace housekeeping and orderliness so that there are no unnecessary things present and all necessary things are in the proper place. (Ord. #06-2007, May 2007)

4-303. General safety rules. The following general worksite safety rules pertain to the work performed at all town facilities and worksites and must be followed by all employees. Any exceptions must be approved by the department head or mayor. All general worksite safety rules are approved by the safety committee. Failure to follow these safety rules will warrant disciplinary action.

(1) Follow all safety rules and procedures applicable to the work being performed.

(2) Review jobs before performing them to assure that the job can be performed safely. If any doubt exists about job safety, do not perform the job until the department head provides a way to safely perform the job.

(3) Perform only those jobs and operate only equipment authorized by the department head.

(4) Wear the personal protective equipment prescribed within specific job/operating procedures and applicable safety rules.

(5) Inspect tools and equipment prior to use and report any defects to supervision for repair before using.

(6) Assure safety guards and devices on machinery and equipment are functioning properly before use.

(7) Promptly report all accidents, including injuries, near misses and non-injury accidents to supervision so prompt action can be taken to provide the necessary medical attention and prevent recurrence.

(8) Maintain a clean and orderly workplace by providing needed materials in assigned locations and removing all unnecessary items.

(9) Lift, push, pull and handle only those things you are physically capable of handling safely while following the prescribed procedure.

(10) Horseplay often results in injury and will not be tolerated. Prompt disciplinary action will be taken.

(11) Know the potential hazards associated with chemical substances and how to protect yourself before handling chemicals.

(12) Report any detected safety or health hazards promptly to the department head so effective corrective measures can be taken.

(13) Use of alcohol and nonprescription drugs on the job is strictly prohibited. Use of prescription drugs which may affect proper job performance must be reported to the department head.

(14) Lockout/tagout procedures shall be followed by all authorized employees to protect themselves from hazardous energy while servicing and maintaining equipment, machines and processes. (Ord. #06-2007, May 2007)

4-304. New employee safety orientation. All new employees must be properly trained to perform their assigned job safely prior to initial workplace exposure. The following new employee safety orientation training will be completed for each new employee.

(1) Ranking supervisor. The ranking supervisor will welcome the new employee to the department or office and explain the town's safety policy and inform the employee about the presence and purpose of the safety committee. Emphasis will be placed on the need to perform jobs safely each time they are performed. The new employee will be informed that good job performance depends on following the safety rules and procedures associated with the jobs. The new employee will be told that every job can and must be done safely.

(2) Safety program. The new employee's supervisor shall ensure that the safety, health and environmental items pertaining to the new employee's job are reviewed and discussed. As a minimum, the following information will be covered:

(a) Safety activities. Review and describe the purpose of the safety committee. Explain the employee participation in the program and the importance of employee involvement. Describe how the safety committee is responsible for coordinating the overall safety program designed to protect people, property, the environment, and comply with governmental regulations, as well as protecting against liability.

(b) Rules and procedures. Review the safety rules and procedures that apply to the new employee's task assignment. Explain each rule and validate that the new employee understands the rule.

(c) Education and training. Explain the importance of safety education and training to ensure a safe and healthful workplace. Emphasize that employees must not perform tasks, jobs, assignments, etc., for which they have not been trained and authorized to perform safely. Describe how routine safety meetings will be held with all employees to keep them properly informed concerning how to perform their assigned work safely. Also, encourage the new employee to report on the effectiveness of his/her safety orientation and safety meetings so that improvements can be made.

(d) Inspections. Describe the overall safety inspection program and its importance in assuring a safe and healthful workplace. Also.

describe each employee's responsibility for inspecting tools and equipment prior to use to ensure that the equipment can be used safely. Explain that defective tools and equipment must not be used until repaired. State that defective tools and equipment must be taken out of service until repaired.

(e) Health and environment. Describe the overall potential health hazards associated with their jobs including chemicals, dusts, fumes, vapors, noise, etc. Explain the town's hazard communication program including its purpose, the chemical inventory, material safety data sheets (MSDS), container labeling, protective measures, etc. Discuss the importance of employees following safe work practices when manually handling materials. State that proper lifting techniques must be followed and that help must be obtained when heavy loads are lifted. Also, explain any environmental hazards associated with operations and control measures for protecting the environment.

(f) Fire and emergency. Describe the proper action that must be taken when an emergency occurs. Explain the type of emergency situations which might occur and the proper action to take. Provide classroom and hands-on fire extinguisher training, if appropriate, and explain the limitations for using fire extinguishers (not for fighting structural fires). If workplace exposure warrants, explain the fire and explosion hazards associated with the use of flammable liquids, gases, etc.

(g) Accident investigation. Explain the procedure and need for reporting all accidents promptly, including injury or illness. Discuss that the purposes of accident investigations are to obtain the facts, determine basic causes, develop solutions, and recommend action to prevent recurrences. Emphasize that investigations are not to place blame, but only to discover the facts. Describe how employees are part of all accident investigations and are important to gathering pertinent information. Review the typical accidents occurring within the department and how they can be avoided. Tell the new employee that newly assigned employees are more apt to be injured on-the-job than other employees and that he or she must perform all work assignments with caution.

(h) Housekeeping. Explain how a clean and orderly workplace is usually a safe workplace. State that a good safety program cannot be achieved and maintained without good housekeeping and orderliness. Describe how to maintain good housekeeping and orderliness by keeping all necessary things in their assigned places and removing all unnecessary things from the workplace. State that a job has not been done right until the worksite has been cleaned up and returned to its normal orderly state. Ask the new employee to report housekeeping problems to supervision so that effective corrective action can be taken.

(3) New employee safety orientation checklist. The new employee orientation and training checklist is shown as Attachment A.¹ It is to be completed by the department head for each employee to assure proper safety orientation. (Ord. #06-2007, May 2007)

4-305. Continuing safety education. Safety education and training is a never-ending job which must be continued throughout employment. Through continuing safety education, employee safety awareness continuously improves and accident potential in the town's work-related activities continuously decreases. Types of continuing safety education include:

(1) Safety meetings. All employees are expected to participate in safety meetings. Safety meetings will be conducted by department, with the exception of administrative offices at town hall, which will be conducted by the mayor/recorder. Safety meetings are an opportunity to review specific accidents and cover the overall safety performance of the group. Discussion time must also be allotted to allow employees to air safety and health concerns.

(2) In-service training. The state commissions for both fire fighters and police officers mandate specific training for these uniformed services. Each of these departments shall present forty (40) hours of training that covers subject material related to either fire or police, as the case may be.

(3) Special training. Special safety, health and/or environmental education and training programs will be presented on an annual basis as determined by the safety committee. Such training may include back safety training, defensive driving, etc. (Ord. #06-2007, May 2007)

4-306. Maintaining a safe workplace. A safe and healthful workplace is maintained through the cooperative efforts of all supervisors and employees. Continuous efforts are necessary to improve safety awareness and behavior, and to assure a safe workplace. Activities aimed at maintaining a safe workplace include:

(1) Inspections, audits and reviews. Inspections and reviews conducted by supervisors and employees to detect safety hazards, safety defects and/or compliance with rules, procedures and regulations. Prompt corrective action concerning items detected helps achieve a safe and healthful workplace. Facility safety inspections, audits and reviews include:

(a) New or modified equipment. All new and/or modified equipment must be reviewed prior to placing the equipment in service. It shall be the supervisor's responsibility to see that the equipment is reviewed with the employee(s) who will operate the equipment. A written record of the review must be on file in the supervisor's office.

(b) General. General facility/worksite safety inspections are conducted periodically by supervisors and employees. Also, specific inspections are conducted by supervisors and employees in their assigned work areas.

¹Attachment A is available in the office of the recorder.

(i) Facility/worksites inspection: Facilities/worksites shall be inspected periodically by supervisors and employees. The procedure for conducting the inspections is as follows:

(A) Coordination. The safety committee is responsible for facilitating and assuring the performance of inspections at town facilities and worksites.

(B) Inspection. The amount of time to be allotted for each inspection will vary according to the complexity of the facility, equipment and/or jobsite procedures being inspected. The safety committee will assist departments in the design of inspection forms and checklists. Each inspection should last a minimum of thirty (30) minutes with special attention to assuring safe work practices and procedures.

(C) Follow-up. The supervisor of the area being inspected must receive a copy of the inspection to follow up on any deficiencies detected. The corrected items must be reported to the department head, safety director, and mayor. Prompt corrective action is necessary to assure a safe and healthful workplace.

(D) Specific inspections. Specific safety inspections which must be conducted throughout a facility or worksite on a routine basis include, but are not limited to:

- (1) Portable ladders.
- (2) Spray booths.
- (3) Vehicle-mounted platforms.
- (4) Overhead and gantry cranes.
- (5) Abrasive wheel machinery.
- (6) Welding and cutting operations.
- (7) Portable fire extinguishers.
- (8) Use and care of respirators.

(E) Inspection procedures. The safety inspection procedures specified by the equipment/machine manufacturers, by TOSHA, American National Standards Institute standards, and other relevant organizations must be followed as referred above.

(2) Personal responsibility for safety and health. Since job safety and health is so important to the safety and health of employees it is a vital aspect of all jobs. Each employee must consider job safety rules and procedures and safe work practices of utmost importance in performing assignments. When safety rules and procedures are not followed, jobs are not performed right, and job performance will be considered unsatisfactory. Failure to correct such problems may result in disciplinary action up to and including termination.

(3) Enforcement of safety rules and procedures. The objective of the safety and health program is that safety rules and procedures are known, understood and followed. Safety rules and procedures that are not known will not protect any employee. Once the rules and procedures are known and understood, the rules must be followed. Each employee's supervisor is responsible for assuring that his or her assigned employees follow applicable safety rules and procedures. Without proper enforcement, safety rules and procedures will be ineffective and injuries and illnesses will more likely result. Enforcement of safety rules and procedures should be done by supervision as a normal course of assuring that jobs are done right. When the necessary enforcement is done routinely and properly in a fair, but firm manner, and all employees understand that the rules and procedures must be followed, very little effort will be required. Employees who violate safety and health rules and procedures that have been established by the Town of Surgoinsville shall be subject to disciplinary action, up to and including dismissal. (Ord. #06-2007, May 2007)

4-307. Providing a healthful workplace. (1) Physical evaluations. Each employee offered employment with the Town of Surgoinsville will receive an initial physical evaluation. The specifics of the evaluation will depend on the nature of the job and the consulting physician's directions. As specified by OSHA standards and other applicable regulations, continuing physical evaluations and/or medical surveillance will be conducted for affected employees.

(2) Policy regarding alcohol and drugs. All town employees have received a copy of the Town of Surgoinsville's policy regarding alcohol and drugs. The policy provides for periodic random sampling for alcohol and drug testing for all of the town's employees. (Ord. #06-2007, May 2007)

4-308. Medical treatment for work-related injuries/illnesses. The following procedures are to be utilized for all on-the-job injuries and illnesses reported to supervision which requires medical treatment beyond first-aid:

(1) Accident investigation procedure. All accidents and/or incidents which caused or had the potential to cause injury, illness and/or damage to facilities, equipment, and property must be reported to supervision, at the earliest opportunity, so that the accident or incident can be investigated. It is very important that non-injury accidents be reported as well so that the cause of the accident may be determined. by identifying and addressing an incident's root cause(s), future accidents which may involve employee injury can be prevented. All employees must be instructed and trained concerning the importance of reporting non-injury incidents.

(2) Investigation. The immediate supervisor of the injured employee or the person responsible for the work area where an accident occurred is responsible for investigating the accident and completing the town's First Report

of Occupational Injury/Illness/Hazard. A copy of the report is included at the end of this manual.

Supervisors may more effectively determine the basic causes of the accident and arrive at better preventive strategies by talking to an employee knowledgeable about the work being performed at the time of the accident. All employees are expected to assist the supervisors, when called on, in conducting the investigation.

All accidents are investigated to determine the basic accident causes, so that effective control measures can be taken to prevent recurrence of that or similar accidents to the person involved or other persons performing similar tasks. Emphasis is placed on getting the accident facts and not on placing blame for the accident. Once the facts have been determined, the basic cause(s) can be identified, and recommendation made to prevent recurrence. Items which should be considered when conducting an accident investigation include, but are not limited to:

- (a) Caring for the injured.
- (b) Securing the area.
- (c) Obtaining accident description.
- (d) Recording sequence of events.
- (e) Recording witness interviews.
- (f) Recreating controlled accident situation.
- (g) Reviewing engineering controls.
- (h) Reviewing job procedures.
- (i) Reviewing safety rules.
- (j) Reviewing employee training.
- (k) Reviewing enforcement.
- (l) Reviewing supervisory controls.
- (m) Listing probable cause.
- (n) Determining most likely cause.
- (o) Developing possible controls.
- (p) Determining best control.
- (q) Assigning responsibility for follow-up.
- (r) Submitting accident investigation report.
- (s) Communicating investigation report.
- (t) Ensuring effective supervisory follow-up.

(3) First report of occupational injury/illness/hazard. The accident investigation report must be completed and forwarded to the safety coordinator within twenty-four (24) hours. All pertinent items on the report must be completed as specified. The safety coordinator should return all reports that are incomplete or not thorough in their causation and prevention determinations.

(4) Communication. Supervisors will communicate accident facts to the injured employee or to employees involved in non-injury accidents, as well as to other employees to keep them properly informed about workplace safety.

The injured employee's name should not be included in the communications to other employees.

(5) Follow-up. The department head of the department where the accident/incident occurred, and the supervisor preparing the accident report, are jointly responsible for ensuring that all accident investigation report recommendations are complied with and/or resolved.

(6) Medical panel. It shall be the responsibility of each department head to communicate with the town's medical panel for workers' compensation claims as part of the investigative process. The department head should make every effort to have employees back on the job as soon as possible. Light duty, including certain administrative duties, is to be encouraged to get the employees back on the job. Light duty assignments should be coordinated with the medical panel. (Ord. #06-2007, May 2007)

4-309. Motor vehicle accident investigation procedures.

(1) Vehicle accidents investigated. When a town employee has an accident in a town vehicle that causes injury to any person and/or damage to any vehicle, equipment or property, that employee must report it immediately to his/her supervisor before accomplishing any other work endeavor.

(2) Police notification. Any vehicle or equipment accident on a public street, in which an employee is involved, while working for the town, must be reported to the police or other appropriate law enforcement agency.

(3) Post-vehicular accident employee responsibilities. Employees shall stop whenever a police investigation of the accident is indicated; do not leave the scene or move the vehicle until directed to do so by the police. Employees shall not admit responsibility for an accident, offer to make any kind of settlement, or sign any statement at the scene of an accident.

If the accident involves damage to an unattended vehicle or a fixed object, reasonable steps shall be taken to locate and notify the owner. If the owner cannot be found, leave a notice in a conspicuous place on the vehicle or object, listing your name and address, and a brief description of the occurrence. (Ord. #06-2007, May 2007)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-401. Title.

4-402. Program director.

4-403. Program standards.

4-404. Effective date of plan.

4-405. Severability.

4-401. Title. This chapter shall be known as the "Occupational Safety and Health Program for the Employees of the Town of Surgoinsville." (1992 Code, § 4-301)

4-402. Program director. The Town of Surgoinsville hereby designates the Chief of Police hereinafter referred to as the "director," to establish a safety and health program in compliance with the requirements of the Tennessee Occupational Safety and Health Act of 1972 and he is hereby given the authority to implement a plan which shall encompass the issues and standards which have been promulgated by applicable state standards. (1992 Code, § 4-302)

4-403. Program standards. This plan shall be at least as effective as the federal or state standards on the same issues and shall include the following:

(1) The director or his authorized representatives shall have the right to enter at any reasonable time any establishment, construction site, plant or other area, workplace or environment where work is performed in the Town of Surgoinsville; and to inspect and investigate any such place of employment and all pertinent conditions, processes, machines, devices, equipment and materials therein, and to question privately any supervisor or employee.

(2) The director may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence under oath for the purpose of confirming or supplementing his findings.

(3) The director shall provide for education and training of personnel for the administration of the program, and he shall provide for the education and training of all employees of the town to the extent that same is necessary for said employees to recognize and report safety and health problems as defined in the applicable standards.

(4) All employees shall be informed of the policies and the standards set forth by the Tennessee Occupational Safety and Health Act.

(5) All employees of the town shall be informed of safety hazards, exposure to toxic or harmful materials and imminent danger situations that may occur in their jobs.

(6) The director or his authorized representative shall upon any allegation of imminent danger immediately ascertain whether there is a reasonable basis for the complaint. He shall make a preliminary determination of whether or not the complaint appears to have merit. If such is the case he or his authorized representative shall report same to town commissioners.

(7) Any employee shall be given the right to participate in an investigation or inspection which involves a safety and/or health situation which concerns his work area.

(8) The director shall establish a safety and health training program designed to instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment.

(9) The director shall contact the Commissioner of Labor of the State of Tennessee by telephone in the event of the death of an employee involved in a work-related accident. This notification will be done as soon after the fatality as possible but not to exceed 48 hours.

(10) The director shall set up a procedure for requesting a variance from the Tennessee Department of Labor in the event an operation within the town does not meet the standards set by the Occupational Safety and Health Act and immediate action to alleviate the discrepancy is not possible.

(11) The director shall establish and maintain a system for collecting and reporting safety and health data required under the Tennessee Occupational Safety and Health Act.

(12) The director shall apply this program to employees of each administrative department, commission, board, division or other agency of the Town of Surgoinsville.

(13) The director shall make an annual report to the Commissioner of Labor for the State of Tennessee showing the accomplishments and progress of the Town of Surgoinsville in its Occupational Safety and Health Program.

(14) The director shall provide a means whereby any employee may submit a report of what he feels is a safety and/or health hazard to his immediate supervisor and the director without fear of jeopardizing his job or chances for future promotion. Such reports shall be preserved and the action thereon shall be noted on said reports and signed by the director or his designees.

(15) In implementing the plan the director shall adopt therein all the words and phrases designated as "definitions" in the Tennessee Occupational Safety and Health Act, promulgated regulations and standards thereunder.

(16) The director shall submit said plan to the Tennessee Department of Labor for approval on or before December 31, 1973. (1992 Code, § 4-303)

4-404. Effective date of plan. The plan, upon its approval by the Tennessee Department of Labor, shall become effective to the Town of Surgoinsville and at this time shall become a part of this chapter as fully and completely as if set out herein. (1992 Code, § 4-304)

4-405. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof. (1992 Code, § 4-305)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-501. Purpose.
- 4-502. Enforcement.
- 4-503. Travel policy.
- 4-504. Travel reimbursement rate schedules.
- 4-505. Administrative procedures.

4-501. Purpose. The purpose of this chapter and referenced regulations is to bring the town into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular town employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on town business at town expense. (Ord. #26-2002, Dec. 2002)

4-502. Enforcement. The town administrator of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #26-2002, Dec. 2002)

4-503. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

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

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

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

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

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

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

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

(b) Actual, reasonable, and necessary under the circumstances.

The town administrator may make exceptions for unusual circumstances. Expenses considered excessive will not be allowed.

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

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

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (Ord. #26-2002, Dec. 2002)

4-504. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates.

The town's travel reimbursement rates will automatically change when the state rates are adjusted.

The town may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #26-2002, Dec. 2002)

4-505. Administrative procedures. The town adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder. (Ord. #26-2002, Dec. 2002)

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
2. BUSINESS TAX.
3. WHOLESALE BEER TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for town funds.

5-101. Official depository for town funds. SunTrust, Bank East Tennessee, FirStar Bank of Hawkins County, their successors and assigns are hereby designated as the official depositories for funds of the Town of Surgoinsville. (Ord. #2-2001, Feb. 2001)

CHAPTER 2**BUSINESS TAX****SECTION**

5-201. Business tax levied.

5-202. Violations.

5-201. Business tax levied. There is levied a business and privilege tax upon merchants and other vocations, occupations, or businesses which are declared by the Tennessee Business Act, being Tennessee Code Annotated, § 67-4-701, et seq., as the said law may be amended from time to time, to be privileges taxable by municipalities. Such tax shall be in the maximum amounts authorized by Tennessee Code Annotated, § 67-4-701, et seq., the Tennessee Business Act. (Ord. #3-2001, Feb. 2001, as amended by Ord. #4-2001, June 2001)

5-202. Violations. Any person violating any provisions of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of up to fifty dollars (\$50.00) for each offense. Each occurrence shall constitute a separate offense. (Ord. #4-2001, June 2001)

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

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1992 Code, § 5-301)

¹State law reference

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

TITLE 6**LAW ENFORCEMENT**¹**CHAPTER****1. POLICE AND ARREST.****CHAPTER 1****POLICE AND ARREST**²**SECTION**

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. When policemen to make arrests.
- 6-104. Disposition of persons arrested.
- 6-105. Citations in lieu of arrest in non-traffic cases.
- 6-106. Summonses in lieu of arrest.
- 6-107. Police department records.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1992 Code, § 6-101)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the town court during the trial of cases. Policemen shall also promptly serve any legal process issued by the town court. (1992 Code, § 6-102)

¹Mutual aid agreements to provide law enforcement between the Surgoinville and Hawkins County, Mt. Carmel, Church Hill, Rogersville and Bulls Gap are on file at the recorder's office.

²Municipal code reference

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

6-103. When policemen to make arrests.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1992 Code, § 6-103)

6-104. 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 town ordinances shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond with the town court clerk, or, if the town 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 town judge. In addition, if the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender. (1992 Code, § 6-104)

6-105. Citations in lieu of arrest in non-traffic cases.² Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the board of mayor and aldermen 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 2 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 housing codes adopted in title 12 of this municipal code of ordinances.

¹Municipal code reference

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

²Municipal code reference

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

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. (1992 Code, § 6-105)

6-106. Summons in lieu of arrest. Pursuant to Tennessee Code Annotated, § 7-63-201, et seq. which authorizes the board of mayor and aldermen to designate certain town enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the fire chief in the fire department and the codes enforcement officer in the building 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.

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 town 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 in section 6-104 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. (1992 Code, § 6-106)

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

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by policemen.
- (3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1992 Code, § 6-107)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN LIMITS.
5. OPEN BURNING.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire district described.

7-101. Fire district described. The corporate fire district shall be and shall include those areas zoned and designated as business and industrial districts. (1992 Code, § 7-101)

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

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Fire flow testing and marking of hydrants.
- 7-208. Standards for fire hydrants and water mains.
- 7-209. Fire hydrant color code.
- 7-210. Violations and penalties.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Standard Fire Prevention Code,² 1994 edition as recommended by the Southern Building Code Congress International, Inc. and the National Fire Protection Association Codes, 1994 edition is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1992 Code, § 7-201)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1992 Code, § 7-202)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Surgoinsville, Tennessee. (1992 Code, § 7-203)

¹Municipal code reference

Building, utility and housing codes: title 12.

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

7-204. Storage of explosives, flammable liquids, etc. (1) The district referred to in section 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(2) The district referred to in section 902.1.1 of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(3) The district referred to in section 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(4) The district referred to in section 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire district as set out in § 7-101 of this code. (1992 Code, § 7-204)

7-205. 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. (1992 Code, § 7-205)

7-206. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1992 Code, § 7-206)

7-207. Fire flow testing and marking of hydrants. NFPA 291, (most current edition) Fire Flow Testing and Marking of Hydrants, is hereby adopted by reference and incorporated into this code as if it were set out at length herein and shall be controlling within the corporate limits. (Ord. #34-2003, Jan. 2004)

7-208. Standards for fire hydrants and water mains. All future water mains and fire hydrants shall be installed in such a manner to provide adequate fire flows. All water mains shall be at least six (6) inches in diameter. However, larger mains shall be installed when necessary to insure that a minimum of five hundred (500) gallons per minute (gpm) at twenty (20) pounds per square inch (psi) residual pressure is available at all fire hydrants. Additional gallons per minute above the minimum five hundred (500) gpm shall be available if the needed fire flow to structures in the area demands such additional flows. The fire hydrants shall be installed in such a manner that

there shall be a fire hydrant within five hundred (500) feet of the front entrance of every structure of more than three hundred (300) square feet. The distance to the fire hydrant shall be measured along the route that would be accessible to the fire department to lay fire hose from the hydrant to the building. (Ord. #34-2003, Jan. 2004)

7-209. Fire hydrant color code. Fire hydrants that currently exist on mains that will not flow at least five hundred (500) gallons per minute at twenty (20) pounds per square inch of pressure will not be used by the fire department for connection to the pumper connection of fire apparatus. Such fire hydrants shall be painted red in color to indicate to firefighters that his hydrant will not flow adequate gallons per minute to be used in firefighting operations. All such fire hydrants shall be identified by the fire chief, color coded, and a list of such fire hydrants shall be compiled and attached to a cover letter from the fire chief to the responsible water provider. The cover letter shall contain at least the following words, "The attached list of fire hydrants have been found to have inadequate fire flows and will not be used by the fire department for pumping operations except in the event of immediate and imminent threat of life safety." Such letter shall be generated annually with a copy to the town administrator. (Ord. #34-2003, Jan. 2004)

7-210. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard Fire Prevention Code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1992 Code, § 7-207)

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Review committee.
- 7-305. Records and reports.
- 7-306. Tenure and compensation of members.
- 7-307. Chief responsible for training and maintenance.
- 7-308. Chief to be assistant to state officer.
- 7-309. Mutual aid and contracts.
- 7-310. Departmental general operating guidelines.
- 7-311. Compensation to the Town of Surgoinsville for services rendered.

7-301. Establishment, equipment, and membership. There is hereby established a municipal volunteer fire department to be supported and equipped from appropriations of the board of mayor and aldermen. Any funds raised by the municipal volunteer fire department as a whole, or by any individual or group of volunteer firefighters in the name of the municipal volunteer fire department, shall be turned over to and become the property of the town and that the chief shall make recommendations to the town administrator for the acquisition of equipment, supplies, etc. and maintenance required to maintain and keep operational; meeting departmental goals and objectives. The town shall use such funds in the equipping of the municipal volunteer fire department. Any and all gifts to the municipal volunteer fire department shall be turned over to, and become the property of the town. All other apparatus, equipment, and supplies of the municipal volunteer fire department shall be purchased by or through the town and shall remain the property of the town. The municipal volunteer fire department shall be composed of a chief appointed by the town administrator and the board and such number of physically fit subordinate officers and firefighters as required. Firefighters shall be at least eighteen (18) years of age and be licensed drivers in the State of Tennessee.

The department shall be equipped with such apparatus and other equipment as may be required from time to time and as the town is able to furnish same, to maintain its efficiency as recommended and requested by the State of Tennessee for the adequate and proper protection of life and property

¹Municipal code reference

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

in the Town of Surgoinsville, Tennessee from fire and related threats. (Ord. #35-2003, Jan. 2004)

7-302. Objectives. The municipal volunteer 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 perform such rescue as its equipment and/or the training of its personnel makes practicable.
- (6) To perform pre-incident assessments, as needed.
- (7) To serve as the emergency management agency for that town.
- (8) To work with the water utility district to insure that adequate water supplies for fire protection are available.
- (9) To perform public fire prevention and education activities.
- (10) To assist in the mitigation of hazardous materials incidents and terrorist attacks to the extent possible that the level of equipment and training will allow.
- (11) To perform code enforcement activities as directed by the Tennessee State Fire Marshal, where applicable. (Ord. #35-2003, Jan. 2004)

7-303. Organization, rules, and regulations. (1) The fire chief of the municipal volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department.

(2) The chief shall determine the number and kind of companies, in consideration of the equipment furnished by the Town of Surgoinsville, of which the department is composed and shall determine which company(s) and personnel respond to alarms, and shall have general and absolute control of the equipment and personnel making up the fire department.

(3) The fire chief shall have the authority to adequately discipline and/or suspend any member of the municipal volunteer fire department for violating the departmental guidelines and/or the policies and procedures of the town or whenever he deems it necessary for the continuing efficient operation of the department.

(4) The chief shall formulate a set of rules and regulations known as the Town of Surgoinsville Municipal Volunteer Fire Department's General Operating Guidelines to regulate operations of the department. The Town of Surgoinsville's Policy and Procedures Manual shall also govern the department where the guidelines are not addressed. The town's policy and procedures are the ultimate authority.

(5) In accordance with and subject to the rules, regulations and requirements of the State of Tennessee and he shall be accountable only to the town administrator.

(6) The chief and/or his assistants are hereby authorized, directed and required to assist all legal authorities in suppressing the crime of arson and the causes, origin and circumstances of all fires and to report same to the duly constituted authorities.

(7) Any person, firm or corporation so notified by the fire department to abate any fire hazard or fire hazards shall comply therewith and promptly notify the fire department.

(8) No person shall enter any place where fire apparatus or equipment is housed nor shall person or persons handle or otherwise interfere with such apparatus or equipment belonging to the department, except firefighters and other officials of the town duly and properly authorized to do so by the fire chief.

(9) All volunteer members: fire chief, officers and firefighters--active or lifetime are employees of the Town of Surgoinsville. They shall be entitled to all provisions and obligations, per status, set forth under Tennessee Code Annotated, §§ 58-2-111, 6-54-603, 29-20-107, 50-3-2014, and 29-20-403. (Ord. #35-2003, Jan. 2004)

7-304. Review committee. Any disciplined and or suspended member shall have the option of appealing the decision of the fire chief to the town administrator. The town administrator shall, after affording the aggrieved member an opportunity to present his position, in writing, at a regular or special meeting, affirm the decision of the fire chief, modify the decision of the fire chief, or remove the decision of the fire chief. (Ord. #35-2003, Jan. 2004)

7-305. Records and reports. The chief or his duly authorized representatives of the municipal volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, donations, training and education, and work of the department. The chief or his designee shall submit a written report on such matters to the town administrator prior to each regular monthly meeting. At the end of the year, a detailed annual report shall be made and submitted to the town administrator. (Ord. #35-2003, Jan. 2004)

7-306. Tenure and compensation of members. (1) The chief shall hold office so long as his conduct and efficiency are satisfactory to the town administrator and board of mayor and aldermen.

(2) The town administrator shall have the authority to suspend the fire chief for a period not to exceed thirty (30) days. In the event such suspension is required for the proper functioning of the administration of the department, the town administrator shall announce at the next regular meeting of the board of mayor and aldermen, the fact of the suspension and make

recommendations to the board regarding the chief's future status. The suspended fire chief shall be allowed to state, in writing, his position regarding the suspension and make recommendations if he so desires. The board of mayor and aldermen, shall by majority vote, decide upon the final status of the fire chief.

(3) At the beginning of each fiscal year, the board of mayor and aldermen may exercise the option of appointing a new fire chief or re-appointing the incumbent fire chief.

(4) All personnel of the municipal volunteer fire department shall receive such compensation for their services as the board of mayor and aldermen may prescribe. (Ord. #35-2003, Jan. 2004)

7-307. Chief responsible for training and maintenance.¹ The chief of the municipal volunteer fire department, under the direction and subject to the requirements of the town administrator, shall be fully responsible for the training of the firefighters and for the maintenance of all property and equipment of the municipal volunteer fire department.

The chief and/or his designee shall conduct suitable drills and instructions in the operation and handling of equipment, rescue work, salvage, a study of the buildings in the town, fire prevention, water supplies, and all other matters generally considered essential to good firemanship and safety of life and property pertaining to fire, and shall and is hereby authorized to cooperate with all state and federal agencies in reference thereto.

All active members shall be certified to a minimum of Firefighter II by the State of Tennessee Commission on Firefighting, per the commission's policies.

All non-certified members not certified by the Tennessee Firefighting Commission, shall not be allowed to engage in any active firefighting activities, i.e., interior structural firefighting, but shall be utilized in a supportive role, e.g., refreshments, traffic control, assist in non-firefighting activities, as stipulated by departmental guidelines and/or the incident commander and/or ultimately the fire chief.

No active members shall have less than forty (40) hours of fire and fire related training annually. All training under § 7-306 shall be documented and filed.

All non-active non-certified members from shall be classified as non-structural firefighting personnel.

Fire department personnel shall hold not less than two (2) practice or training sessions a month.

¹State law reference

Local governments--powers unaffected: Tennessee Code Annotated, § 7-24-408.

All members are encouraged to certify and educate themselves to their highest potential. (Ord. #35-2003, Jan. 2004)

7-308. Chief to be assistant to state officer. (1) Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the State Commissioner of Insurance and is subject to all duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof.

(2) The Town of Surgoinsville Municipal Volunteer Fire Department shall maintain the status of "duly recognized fire department" by meeting all the requirements under Tennessee Code Annotated, title 68, chapter 102, part 3 issued by the State of Tennessee Department of Commerce and Insurance--State Fire Marshal's Office. (Ord. #35-2003, Jan. 2004)

7-309. Mutual aid and contracts. Where mutual aid and or contract(s) agreements have been signed and/or are adopted by the town, now and in the future, between the Town of Surgoinsville and/or other cities and/or towns, and/or other volunteer fire departments and/or individuals, the fire department is hereby authorized to respond to calls for service and/or assistance outside the corporate limits when service and/or assistance is requested from another fire department or under contract with which the town has a valid mutual aid agreement and/or valid contract with or interest.¹ (Ord. #35-2003, Jan. 2004)

7-310. Departmental general operating guidelines. The Town of Surgoinsville Municipal Volunteer Fire Department's General Operating Guidelines and the Town of Surgoinsville's Policy and Procedures Manual shall be used to regulate internal operations of the department. The departments' general operating guidelines shall have the approval of the town administrator and the fire chief before becoming an official guideline. The purposes of the guidelines are to give guidance, latitude, and regulation to incidents and functions carried out within and by the municipal volunteer fire department.

¹State law references

Interlocal Cooperation Act: Tennessee Code Annotated, § 12-9-101.

Contracts and mutual aid agreements: Tennessee Code Annotated, § 6-54-601.

Mutual assistance as governmental function: Tennessee Code Annotated, § 6-54-602.

Rights, duties and immunity of officers and employees: Tennessee Code Annotated, § 6-54-603.

The guidelines shall be amended and modified by the fire chief as needed.¹
(Ord. #35-2003, Jan. 2004)

7-311. Compensation to the Town of Surgoinsville for services rendered. Whereas Tennessee Code Annotated, § 68-212-121 permits a municipality to recover the cost of hazardous waste and substance spills in connection with "driving on a Tennessee road, highway, interstate or other thoroughfare..." the Town of Surgoinsville may seek compensation for services and response to such incidents. Billing will be based on manpower, equipment usage, supplies and other required resources used by the towns' responding departments. The town administrator will be responsible for billing.
(Ord. #35-2003, Jan. 2004)

¹Town of Surgoinsville's Municipal Volunteer Fire Department General Operating Guidelines.

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-401. Restrictions on fire service outside town limits.

7-401. Restrictions on fire service outside town limits. The board shall have full power and authority to authorize the use of the town's fire-fighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

(1) 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 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., the Interlocal Cooperation Act, which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

(3) Tennessee Code Annotated, § 6-54-601, which authorizes municipalities to:

(a) 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 industrial fire departments, to furnish one another with fire fighting assistance.

(b) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance.

(c) Provide fire protection outside their town limits to either citizens on an individual contractual basis, or to citizens in an area

without individual contracts, 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. (Counties may compensate municipalities for the extension of fire services.)

CHAPTER 5

OPEN BURNING

SECTION

7-501. Specific materials that may not be burned.

7-502. Burning prohibited.

7-503. Exemptions to prohibited burning.

7-504. Permit required for certain burning practices.

7-505. Violations.

7-506. Enforcement.

7-501. Specific materials that may not be burned. It is illegal to open burn any trash, wood scraps, brush, limbs, leaves and other debris upon property within the town. (Ord. #57-2006, Aug. 2006)

7-502. Burning prohibited. After the effective date of these regulations, no person shall cause, suffer, allow, or permit open burning of any kind except as specifically permitted herein. (Ord. #57-2006, Aug. 2006)

7-503. Exemptions to prohibited burning. Open burning, as described in this section, may be conducted provided that no public nuisance is or will be created by such burning. Fires used for cooking food, fires for ceremonial purposes or recreational purposes or comfort heating fires, including barbecues and outdoor fireplaces, and fires set for the training and instruction of firefighters. This grant of exemption shall in no way relieve the person from the consequences, damages, or claims resulting from such burning. This exception does not relieve the person of the responsibility of using fire safe practices nor from getting a permit from any other agency that may require such. The open burning, as referred to in this section, shall conform to regulations set forth by the Tennessee Department of Environment and Conservation Division of Air Pollution Control. (Ord. #57-2006, Aug. 2006)

7-504. Permit required for certain burning practices. Large controlled open burning is permissible only with the approval of the Surgoinsville Volunteer Fire Chief or his designee and obtaining a permit from the Town of Surgoinsville. (Ord. #57-2006, Aug. 2006)

7-505. Violations. Violations of this chapter shall be subject to a fine of fifty dollars (\$50.00) per day of violation. (Ord. #57-2006, Aug. 2006)

7-506. Enforcement. The fire chief or his designee is hereby authorized and directed to enforce the provisions of this chapter. (Ord. #57-2006, Aug. 2006)

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this town. "Intoxicating liquor" shall be defined to include whiskey, wine, "homebrew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. (Ord. #45-2005, May 2005)

¹Municipal code references

Minors in beer places, public drunkenness, etc.: title 11 chapter 2.

State law reference

Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Beer permits shall be restrictive.
- 8-209. Permits for the retail sale of beer.
- 8-210. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Suspension and revocation of beer permits.
- 8-214. Advertising the sale or distribution of beer.
- 8-215. Privilege tax.
- 8-216. Civil penalty in lieu of suspension.

8-201. Beer board established. There is hereby established a beer board to be composed of five (5) members appointed by the board of mayor and aldermen. All members of the beer board shall be citizens of the town. They shall be appointed for five (5) year terms except that the first members shall be appointed for staggered terms so that the term of one (1) member shall expire each year thereafter. A chairman shall be elected annually by the board from among its members. Members of the beer board shall serve without compensation. (Ord. #45-2005, May 2005)

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

¹Municipal code references

Tax provisions: title 5.

State law reference

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

gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1992 Code, § 8-202)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date 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. (1992 Code, § 8-203)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. (Ord. #45-2005, May 2005)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this town in accordance with the provisions of this chapter. (1992 Code, § 8-205)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #45-2005, May 2005, modified)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Surgoinsville. 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. The permit holder must have a direct financial connection to the business, either owner, partner, or manager. (Ord. #041095, May 1995)

8-208. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. 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. (1992 Code, § 8-208)

8-209. Permits for the retail sale of beer. Permits for the retail sale of beer shall be restricted to the sale of beer to be consumed on and off the premises. The issuance of a beer permit in no way authorizes the sale of liquor. (Ord. #45-2005, May 2005)

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. (1992 Code, § 8-210)

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (1992 Code, § 8-211)

8-212. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Be within three hundred (300) feet of any church, school, or public gathering that would otherwise interfere with traffic, public health, safety, and morals.
- (2) Make or allow any sale of beer between the hours of 3:00 A.M. and 6:00 A.M. during any night of the week; except, on Sunday, make or allow between 3:00 A.M. and 10:00 A.M.
- (3) Allow any loud, unusual, or obnoxious noises to emanate from his premises.
- (4) Make or allow any sale of beer to a person under twenty-one (21) years of age.
- (5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (7) Allow drunk persons to loiter about his property.
- (8) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- (9) Fail to provide and maintain unisex or separate sanitary toilet facilities for men and women.

(10) Fail to maintain proper visibility in the front windows at a height of at least five (5) feet from the pavement. (Ord. #041095, May 1995, as amended by Ord. #36-2003, Jan. 2004, Ord. #42-2004, Jan. 2005, and Ord. #45-2005, May 2005)

8-213. Suspension and revocation of beer permits. The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. A permit holder whose permit has been revoked by the beer board shall not be eligible to receive another beer permit for a period of ten years thereafter. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. (1992 Code, § 8-213)

8-214. Advertising the sale or distribution of beer. It shall be unlawful for more than one sign advertising the sale or distribution of beer or alcoholic beverages to be displayed in the front of any establishment conducting the sale or distribution of beer. It shall further be unlawful for the size of said sign indicating the sale or distribution of beer to be larger than twenty-four (24) inches by sixty (60) inches. The sign can be of flat or shingle type. The sign cannot advertise or display brand names, pictures, numbers, prices, or diagrams relating to beer and if illuminated, moving or flashing lights are prohibited. (Ord. #45-2005, May 2005)

8-215. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). 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, 1994, and each successive January 1, to the Town of Surgoinsville, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1992 Code, § 8-215)

8-216. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) 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. 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.

The beer board may, at the time it imposes a revocation or suspension for making or allowing any sale of beer to a person under twenty-one (21) years of age, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense nor to be less than two hundred dollars (\$200.00) for the first offense, less than five hundred dollars (\$500.00) for the second offense, less than five hundred dollars (\$500.00) and a ten (10) day suspension for the third offense, less than revocation for the fourth offense. The beer board shall have the authority and power to review each case individually and make adjustments. (Ord. #45-2005, May 2005)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. YARD SALES.
3. CABLE TELEVISION.
4. MASSAGE PARLORS.
5. POOL ROOMS.
6. TELECOMMUNICATIONS SIGNALS.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

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

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 town, who has no permanent regular place of business

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

²Municipal code reference

Trespass by peddlers, etc.: § 11-801(5).

and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

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

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

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

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

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

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

(5) "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.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (1992 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. (1992 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 town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (1992 Code, § 9-103)

¹State law references

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

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

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

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

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

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

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

(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.

(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 recorder, the recorder shall submit to the chief of police a copy of the application form and the permit. (1992 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 town.

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

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

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

noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the town.

(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. (1992 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, canceled 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. (1992 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. (1992 Code, § 9-107)

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

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1992 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 town. 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. (1992 Code, § 9-109)

9-110. Number of permits per month. Permits for charitable or religious solicitations within the town's corporate limits shall be issued on a first to apply basis, to be conducted on the particular day of the month by the requesting charitable or religious organization. All charitable or religious solicitation permits issued shall allow no more than four solicitors from the permittee to be within the streets at any one time and all solicitations shall take place at the intersection of _____ (street) and _____ (street) within the town corporate limits. Any violation of this section will be subjected to a fine of not less than fifty dollars (\$50.00) per incident. (1992 Code, § 9-111)

9-111. Violation and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (1992 Code, § 9-110)

CHAPTER 2

YARD SALES

SECTION

- 9-201. Definitions.
- 9-202. Property permitted to be sold.
- 9-203. Display of sale property.
- 9-204. Advertising signs.
- 9-205. Persons exempted from chapter.
- 9-206. Penalty.

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

(1) "Garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance¹, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment. (1992 Code, § 9-201)

9-202. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (1992 Code, § 9-202)

9-203. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

for sale may be displayed on a permanently constructed driveway within such front or side yard. (1992 Code, § 9-203)

9-204. Advertising signs. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

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

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

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

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (1992 Code, § 9-204)

9-205. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

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

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

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Surgoinsville, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (1992 Code, § 9-205)

9-206. Penalty. Any person found guilty of violating the terms of this chapter shall be punished according to the general penalty provisions of this municipal code of ordinances. (1992 Code, § 9-206)

CHAPTER 3**CABLE TELEVISION****SECTION**

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television shall be furnished to the Town of Surgoinsville and its inhabitants under franchise agreements granted by the board of mayor and aldermen of the Town of Surgoinsville, Tennessee.¹ (1992 Code, § 9-301)

¹Cable television franchise agreements are on file in the office of the town recorder.

CHAPTER 4

MASSAGE PARLORS

SECTION

- 9-401. Definitions.
- 9-402. Application; fee; investigation; issuance of permit.
- 9-403. Massager permit.
- 9-404. Inspection.
- 9-405. Suspension of permit.
- 9-406. Revocation of permit.
- 9-407. Daily register.
- 9-408. Regulations.
- 9-409. Display of permit.
- 9-410. Unlawful acts.
- 9-411. Expiration of permit.
- 9-412. Inapplicability to doctors, etc.
- 9-413. Permit not transferrable.
- 9-414. Violations.

9-401. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Massage" means the administration by any person of any method of exerting or applying pressure, friction, moisture, heat or cold to the human body and/or the rubbing, stroking, kneading, pounding, tapping, washing or otherwise manipulating a part of the whole of the human body or the muscles or joints thereof, by any physical or mechanical means for any form of consideration.

(2) "Massage parlor" means any establishment having a fixed place of business where the administering of massages is the principal or main business purpose of activity that is conducted on the premises. This definition shall not be construed to include a hospital, nursing home, medical clinic or other office of a duly licensed physician, surgeon, physical therapist, chiropractor or osteopath.

(3) "Massager" means any person who administers a massage to another person at a massage parlor.

(4) "Permittee" means the individual, partnership, association, joint stock company, corporation or combination of individuals of whatever form or character, which is the legal holder of a massage parlor permit as provided by this ordinance.

(5) "Employee" means any and all persons, other than massagers, who render any service to patrons of massage parlors. (1992 Code, § 9-401)

9-402. Application; fee; investigation; issuance of permit. Any person desiring a massage parlor permit to establish, maintain or operate a massage parlor in the town shall make application of the chief of police on an application form provided by the Town of Surgoinsville, which application form shall contain the name and address of the place where the applicant proposes to operate, maintain or establish a massage parlor in the town. Each massage parlor permit application shall be accompanied by an investigation fee of five hundred dollars (\$500.00).

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

The application shall include a business, occupation or employment history of the applicant for the five (5) years immediately preceding the date of the application. It shall also include a detailed statement of any and all convictions, pleas of nolo contendere or forfeitures suffered by 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 thereof) on any charges of prostitution, assignation, pandering, obscenity, lewdness, crimes against nature or any provision of this ordinance or any provision of a similar law or ordinance in any other jurisdiction.

The chief of police shall arrange to have the fingerprints of each applicant taken, which fingerprints shall constitute a part of the application. There shall be filed with the application at least two (2) portrait photographs of the applicant taken within sixty (60) days immediately prior to the date of application, which photographs shall be not less than two (2) inches by two (2) inches and shall show the head and shoulders of the applicant in a clear and distinguishable manner.

Upon receipt of the application and investigation fee, the chief of police shall make or cause to be made an investigation of the applicant which shall include:

- (1) The criminal record of the applicant.
- (2) Communication with the employers, business associates, or fellow employees of the applicant during the five (5) years preceding the investigation.
- (3) Determination of whether the premises proposed to be utilized by the applicant comply with the provisions of this chapter and all other zoning ordinances and all other building, fire, plumbing and electrical codes.
- (4) Any and all other matters which the chief of police deems to be material to a reasonable consideration of the applicant.

The chief of police shall file his investigative report, with all supporting material and documentation, with the mayor and board of aldermen not later than twenty-one (21) days following the date of application; however, the chief of police may file an amended report at any time additional material information concerning the applicant comes to his attention.

Upon receipt of the report of the chief of police, the mayor and board of aldermen shall docket the application on the agenda of the next regular meeting of the board of mayor and aldermen, at which time a hearing shall be conducted on the application. The board of mayor and aldermen, after a consideration of the application and investigative report, after an open examination of the applicant, after opportunity has been given for the introduction of additional information by any interested party and after a full and complete consideration of all relevant facts and circumstances, shall authorize the issuance of a massage parlor permit at the premises designated in the application within one week following the hearing, unless it finds that the application contains false information, the applicant has not complied with all applicable laws and ordinances, the applicant has been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of prostitution, assignation, pandering, obscenity, lewdness, crime against nature or any provision of this ordinance or any provision of a similar law or ordinance in any other jurisdiction. Notice of the time and place of the hearing before the board of mayor and aldermen shall be posted in a conspicuous place upon the premises specified in the application at least five (5) days prior thereto and the applicant shall maintain the said notice until after the hearing.

The board of mayor and aldermen may not authorize the issuance of a permit to an applicant whose proposed premises for the establishment, maintenance, or operation of a massage parlor is within one thousand (1,000) feet, measured from property line to property line, of any church, school, hospital, funeral parlor, library, museum, playground or any other public or private building or premises likely to be utilized by persons under the age of eighteen (18) years. (1992 Code, § 9-402)

9-403. Massager permit. Any persons desiring a permit to act as a massager in a massage parlor in the town shall make application to the chief of police on an application form provided by the Town of Surgoinsville, which application form shall contain spaces for the applicant's name, address, telephone number, all previous addresses within the year immediately preceding the date of the application, date of birth, place of birth, height, weight, massage training and current employment. Each massager permit application shall be accompanied by an investigation fee of twenty-five dollars (\$25.00).

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

The application shall also include a detailed statement of any and all convictions, pleas of nolo contendere, or forfeitures suffered by the applicant on any charge of prostitution assignation, pandering, obscenity, lewdness, crimes against nature or any provision of this ordinance or any provision of a similar law or ordinance in any other jurisdiction.

The chief of police shall arrange to have the fingerprints of each applicant taken, which fingerprints shall constitute a part of the application. There shall be filed with the application at least two (2) portrait photographs of the applicant taken within sixty (60) days immediately prior to the date of application, which photographs shall be not less than two (2) inches by two (2) inches and shall show the head and shoulders of the applicant in a clear and distinguishable manner.

All persons who desire to act as a massager at a massage parlor in the Town of Surgoinsville shall attach to their applications a certification from a licensed physician in the State of Tennessee that the applicant has submitted to a physical examination for contagious or communicable diseases and that the applicant is either free from any contagious or communicable diseases or is incapable of communicating any such diseases to others. The physical examination shall include a recognized blood test for syphilis, a culture for gonorrhea and a chest x-ray which shall be made and interpreted by a trained radiologist.

Upon receipt of the application and investigation fee, the chief of police shall make or cause to be made an investigation of the applicant, which shall include:

- (1) The criminal record of the applicant.
- (2) Communication with the employers, business associates or fellow employees of the applicant during the five (5) years preceding the investigation.
- (3) Referral of the medical examination submitted with the application to the medical department of the Town of Surgoinsville for review and comment or to any retained, qualified clinic.
- (4) Any and all other matters which the chief of police deems to be material to a reasonable consideration of the applicant.

The chief of police shall file his investigative report, with all supporting material and documentation, with the mayor and board of aldermen not later than twenty-one (21) days following the date of the application; however, the chief of police may file an amended report at any time additional material information concerning the applicant comes to his attention.

Upon receipt of the report of the chief of police, the mayor and board of aldermen shall docket the application on the agenda of the next regular meeting of the board of mayor and aldermen, after a consideration of the application and investigative report, after an open examination of the applicant, after opportunity has been given full and complete consideration of all relevant facts and circumstances, shall authorize the issuance of a massagers permit within one week following the hearing, unless it finds that the application is deficient, the application contains false information, the applicant has not complied with all applicable laws and ordinances, the applicant has been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of prostitution, assignation, pandering, obscenity, lewdness, crime against nature of any provision of this ordinance or any provision of a similar ordinance in any other jurisdiction.

All massagers who possess valid permits for administering massages in a massage parlor in the Town of Surgoinville shall undergo a physical examination, including the aforementioned tests for contagious and communicable diseases, at least once every six (6) months following the issuance of their massager permits. When the chief of police or his duly authorized representative has cause to believe that the massager is capable of communicating any contagious diseases to others, he may at any time require an immediate physical examination of any such person.

In no event, and under no circumstances, shall a permit be issued to any party unless and until such party shall have satisfactorily completed a course or courses accredited by, approved and recognized by, the American Massage and Therapy Association or a similar accredited association, said courses shall pertain to anatomy, physiology, hygiene, first aid exercise, therapy massage techniques and other related aspects of the arts and sciences of massage or physical therapy. (1992 Code, § 9-403)

9-404. Inspection. The chief of police or his duly authorized representative is hereby authorized to enter, examine and survey any premises in the town for which a massager parlor permit has been issued pursuant to this chapter during business hours to enforce the provisions of this chapter. (1992 Code, § 9-404)

9-405. Suspension of permit. If the chief of police finds that the massage parlor, for which the massage parlor permit was issued, does not conform to this chapter or the permittee has refused the chief of police or his duly authorized representative the right to enter the premises to enforce the provisions of this chapter, the chief of police may temporarily suspend the massage parlor permit, pending a hearing before the board of mayor and aldermen. A copy of the temporary suspension shall be sent to the mayor and board of aldermen for docketing on the next regular agenda of board of mayor and aldermen and sent to the permittee at his place of business by certified mail, which shall set forth the reason for said suspension. No person shall operate a massage parlor when subject to an order of suspension. The board of mayor and aldermen may, after an open hearing, reinstate a suspended massage parlor permit when no fact or condition exists which would otherwise warrant the refusal to grant a massage parlor permit under the terms of this chapter. (1992 Code, § 9-405)

9-406. Revocation of permit. Any massage parlor permit granted under this chapter shall be revoked by the board of mayor and aldermen after notice and hearing if the permittee or massager has been convicted, pleaded nolo contendere or suffered a forfeiture on any charge of prostitution, assignation, pandering, obscenity, lewdness, crimes against nature or any provision of this chapter or any provision of a similar law or chapter in any other jurisdiction.

The notice required by this section shall be sent by certified mail to the permittee or massager at his last know address at least five (5) days prior to the date set for the hearing before the board of mayor and aldermen.

If any massager or other employee of any permittee violates any provisions of this chapter, it shall be presumed that such violation was with the knowledge and consent of the permittee; if any permittee fails to overcome the said presumption, the massage parlor permit issued to him shall be subject to permanent revocation in the manner set out in this section. (1992 Code, § 9-406)

9-407. Daily register. Every permittee shall maintain a daily register, showing the names and addresses of all patrons, along with the name of the massagers assigned and the fee charged. The daily register shall be kept in a permanent, well-bound book; it shall be kept on file for at least one (1) year. (1992 Code, § 9-407)

9-408. Regulations. No massage parlor shall be operated, established or maintained in the town 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 used in administering massages. Such non-disposable instruments and materials shall be disinfected after each use on each patron.

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

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

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

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

(6) All walls, ceilings, floors, pools, showers, bathtubs, steam 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 and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

- (7) The premises shall be equipped with a service sink for custodial services.
- (8) Eating in the massage work areas shall not be permitted.
- (9) Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas. (1992 Code, § 9-408)

9-409. Display of permit. Every permittee to whom a massage parlor 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 massager permit shall have been granted shall, while in a massage parlor, openly display the said permit by pinning or clasping it to his or her outer garments, so that it may be readily seen by patrons and other interested persons.

No permit shall be altered or defaced in any manner by any permittee or massager. (1992 Code, § 9-409)

9-410. Unlawful acts. (1) It shall be unlawful for any person in a massage parlor to place his or her hand or 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. Sexual or genital parts shall include the genitals, public area, buttocks, anus or perineum of any person on the vulva or breast of a female.

(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. It shall also be unlawful for any person in the massage parlor to expose the sexual or genital parts, or any portion thereof, of any other person.

(3) It shall be unlawful for any person, while in the presence of any other person 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 massage parlor, any agent, employee or any other person under his control or supervision to perform such acts prohibited in this chapter or to perform massages without license and violation of this provision shall be grounds for revocation of the massage parlor permit.

(5) Massagers issued a permit under this chapter may not administer massages at any place other than at a massage parlor which has also been issued a permit hereunder.

(6) Every person owning, operating 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 remain open or provide services at any time between the hours of 10:00 P.M. and 10:00 A.M. or at any time on Sundays.

(8) The administering of massage shall not be conducted in private rooms or areas, but shall be conducted in separate general areas for males and females. (1992 Code, § 9-410)

9-411. Expiration of permit. Each massage parlor permit shall expire one year from the date of issue and that each massager permit shall also expire one year from the date of issue. (1992 Code, § 9-411)

9-412. Inapplicability to doctors, etc. The provisions of this chapter shall not apply to duly licensed physicians, surgeons, physical therapists, chiropractors, osteopaths or registered nurses while engaged in the personal performance of the duties of their respective professions. (1992 Code, § 9-412)

9-413. Permit not transferrable. No permit issued hereunder shall be transferrable. (1992 Code, § 9-413)

9-414. Violations. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be fined fifty dollars (\$50.00) for each violation, and each day of violation of any provisions of this chapter shall constitute a separate violation. (1992 Code, § 9-414)

CHAPTER 5

POOL ROOMS

SECTION

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

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty per cent (50%) or more of the land is used or zoned for residential purposes. (1992 Code, § 9-501)

9-502. Hours of operations regulated. It shall be unlawful for persons to operate pool tables, billiard tables, or games of amusement at any time except between the hours of 6:00 A.M. and 12:00 P.M. on week days and Saturday and between the hours of 1:00 P.M. and 6:00 P.M. on Sunday. (1992 Code, § 9-502)

9-503. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1992 Code, § 9-503)

9-504. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire, to permit any gambling or other unlawful or immoral conduct on such premises. (1992 Code, § 9-504)

CHAPTER 6

TELECOMMUNICATIONS SIGNALS

SECTION

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Telecommunications signals shall be furnished to the Town of Surgoinsville and its inhabitants under franchise agreements granted by the board of mayor and aldermen of the Town of Surgoinsville, Tennessee.¹ (1992 Code, § 9-601)

¹Telecommunications franchise agreements are on file in the office of the town recorder.

TITLE 10**ANIMAL CONTROL****CHAPTER**

1. IN GENERAL.
2. DOGS.
3. ANIMAL CONTROL DEPARTMENT.
4. CATS.

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

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

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

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1992 Code, § 10-101)

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep any other animal or fowl enumerated in the preceding section on land consisting of fewer than five (5) acres. (1992 Code, § 10-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1992 Code, § 10-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1992 Code, § 10-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1992 Code, § 10-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1992 Code, § 10-106)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Destruction of vicious or infected dogs running at large.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law"¹ or other applicable law. (1992 Code, § 10-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1992 Code, § 10-202)

10-203. Running at large prohibited.² It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1992 Code, § 10-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1992 Code, § 10-204)

¹State law reference

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

²State law reference

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

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1992 Code, § 10-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1992 Code, § 10-206)

10-207. Destruction of vicious or infected dogs running at large. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman¹ or other properly designated officer. (1992 Code, § 10-207)

¹State law reference

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

CHAPTER 3

ANIMAL CONTROL DEPARTMENT

SECTION

- 10-301. Municipal animal control department established.
- 10-302. Animals running at large may be seized.
- 10-303. Animals shall be kept at shelter.
- 10-304. Release of animal to owner.
- 10-305. Maintenance fee set.
- 10-306. Authority and control of animal control officer.

10-301. Municipal animal control department established. There is hereby established a municipal animal control department to be staffed on a part-time basis by individual(s) designated by the Board of Mayor and Aldermen of the Town of Surgoinsville. (Ord. #58-2006, Nov. 2006)

10-302. Animals running at large may be seized. The animal control officer(s) is empowered to seize all animals running at large or whose presence or activities are in violation of state law and/or municipal ordinances within the corporate limits of Surgoinsville. (Ord. #58-2006, Nov. 2006)

10-303. Animals shall be kept at shelter. The animal control officer(s) will be empowered to seize and remove animals whose presence or activities are in violation of state law and/or town ordinances, and to house them at the Hawkins County Humane Society. (Ord. #58-2006, Nov. 2006)

10-304. Release of animal to owner. Any owner desiring to reclaim his or her animal must contact the animal control officer to make the necessary arrangements. Before the animal control officer or Hawkins County Humane Society designated employee releases any animal to its owner, he shall (1) require and receive written proof that the owner has received a municipal court citation, and (2) collect and receipt the accrued maintenance fee. Upon conviction, the owner shall be required to pay the appropriate town, the city fine and court cost for allowing the animal to run at large or for violating any other applicable state law or city ordinance. (Ord. #58-2006, Nov. 2006)

10-305. Maintenance fee set. The maintenance fee is hereby set at thirty dollars (\$30.00) per day, which amount shall be used to defray the costs of operating the department. (Ord. #58-2006, Nov. 2006)

10-306. Authority and control of animal control officer. When the animal control officer(s) is operating within the municipal limits of Surgoinsville, he shall be considered to be acting under the supervision of the

chief of police for purposes of any liability claims which may arise from the officer's activities on public or private property. The activities of the animal control officer(s) in the surrounding cities/counties shall be treated as taking place under, and shall be sanctioned by, a mutual aid agreement between the cities/counties to assist one another in the elimination of dangers to the public health and safety and in furtherance of the protection of the general public. (Ord. #58-2006, Nov. 2006)

CHAPTER 4

CATS

SECTION

10-401. Rabies vaccination and registration required.

10-402. Cats running at large prohibited.

10-401. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law"¹ or other applicable law.

(1) Evidence of valid rabies vaccination required. It shall be unlawful for any person who owns, keeps, or harbors a cat within the corporate limits, upon the request of an animal control officer, code enforcement officer or police officer duly employed with the Town of Surgoinsville, to fail to provide evidence of current rabies vaccination. Evidence of such vaccination shall consist of a certificate that contains the owner's name and address, date of vaccination, date the cat should be revaccinated, description and sex of the cat vaccinated, number of the vaccination tag issued when applicable, manufacturer and lot number of vaccine administered, and the name and signature of the supervising veterinarian.

Cats may be vaccinated as early as three (3) months of age or at an age as specified by the vaccines of the United States Department of Agriculture (USDA) license, but will be considered as noncompliant with this section, if over six (6) months of age.

(2) Cats may wear vaccination tags. Cats may, but are not required to wear a rabies vaccination tag. If the cat is wearing a rabies vaccination tag or other identification, reasonable efforts shall be made to locate and notify the owner(s) in the event the cat is seized and/or transported to a housing facility approved by the municipality.

(3) Suspicion of infection of rabies. If any cat has bitten any person or animal or is suspected of having bitten any person or animal or is for any reason being suspected of being infected with rabies, the animal control officer, code enforcement officer or police officer duly employed with the municipality may cause such cat to be confined or isolated for such time as he deems necessary to determine if the cat is rabid.

When, because of its viciousness or apparent infection with rabies, a cat found running at large cannot be safely impounded, it may be dispatched by any

¹State law reference

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

animal control officer, code enforcement officer or police officer duly employed with the municipality. (Ord. #58-2006, Nov. 2006)

10-402. Running at large prohibited. (1) It shall be unlawful for any person knowingly to permit any cat owned by him or under his control to run at large within the corporate limits. Any person knowingly permitting a cat to run at large, including the owner of the cat may be prosecuted under this section even if the cat is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the cat to its owner.

(2) Cat may be seized. Any cat found running at large within the corporate limits may be seized by any animal control officer, code enforcement officer or police officer duly employed by the municipality. If the cat is wearing a rabies vaccination tag or other identification the cat shall be held for five (5) days. Failure by the owner to reclaim, pay any and all fines and/or fees, or have the animal vaccinated against rabies, if proof of current rabies vaccination is not produced prior to release, shall require the cat to be adopted or humanely destroyed.

(3) If the cat is not wearing an identification tag the cat may be adopted or humanely destroyed, unless legally claimed by the owner within three (3) days. (Ord. #58-2006, Nov. 2006)

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

1. MISDEMEANORS OF THE STATE ADOPTED.
2. ALCOHOL.
3. GAMBLING, FORTUNE TELLING, ETC.
4. OFFENSES AGAINST THE PERSON.
5. OFFENSES AGAINST THE PEACE AND QUIET.
6. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
7. FIREARMS, WEAPONS AND MISSILES.
8. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.

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

11-101. Misdemeanors of the state adopted.

11-101. Misdemeanors of the state adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the Common Law to be misdemeanors are hereby designated and declared to be offenses against this town also. Any violation of any such law within the corporate limits is also a violation of this section. (1992 Code, § 11-101)

¹Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

CHAPTER 2**ALCOHOL**¹**SECTION**

11-201. Drinking alcoholic beverages in public, etc.

11-201. 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, sidewalk, public park, public school ground or other public place. (1992 Code, § 11-202)

¹Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

CHAPTER 3**GAMBLING, FORTUNE TELLING, ETC.****SECTION**

- 11-301. Gambling prohibited.
- 11-302. Promotion of gambling.
- 11-303. Fortune telling, etc.

11-301. Gambling prohibited. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1992 Code, § 11-301)

11-302. Promotion of gambling. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1992 Code, § 11-302)

11-303. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1992 Code, § 11-303)

CHAPTER 4

OFFENSES AGAINST THE PERSON

SECTION

11-401. Assault and battery.

11-401. Assault and battery. It shall be unlawful for any person to commit an assault and battery upon another person. (1992 Code, § 11-401)

CHAPTER 5

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-501. Disturbing the peace.

11-502. Anti-noise regulations.

11-501. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1992 Code, § 11-501)

11-502. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

(a) Blowing horns. The sounding of any horn or other device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of person in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

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

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

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

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

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

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

(a) Town 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 town, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. 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. (1992 Code, § 11-502)

CHAPTER 6**INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL****SECTION**

11-601. Escape from custody or confinement.

11-602. Impersonating a government officer or employee.

11-603. False emergency alarms.

11-601. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1992 Code, § 11-601)

11-602. Impersonating a government officer or employee. No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1992 Code, § 11-602)

11-603. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1992 Code, § 11-603)

CHAPTER 7

FIREARMS, WEAPONS AND MISSILES

SECTION

11-701. Air rifles, etc.

11-702. Throwing missiles.

11-703. Discharge of firearms.

11-701. Air rifles, etc. It shall be unlawful for any person in the town to maliciously discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1992 Code, § 11-701)

11-702. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1992 Code, § 11-702)

11-703. Discharge of firearms. It shall be unlawful for any person to maliciously discharge a firearm within the corporate limits. (1992 Code, § 11-703)

CHAPTER 8

**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE
WITH TRAFFIC****SECTION**

11-801. Trespassing.

11-802. Malicious mischief.

11-803. Interference with traffic.

11-801. 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.¹ (1992 Code, § 11-801)

11-802. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage,

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1992 Code, § 11-802)

11-803. 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. (1992 Code, § 11-803)

TITLE 12

BUILDING, UTILITY, ETC. CODES¹

CHAPTER

1. ADMINISTRATION.
2. BUILDING CODE.
3. PLUMBING CODE.
4. ELECTRICAL CODE.
5. GAS CODE.
6. HOUSING CODE.

CHAPTER 1

ADMINISTRATION

SECTION

- 12-101. Definitions.
- 12-102. Position established.
- 12-103. Duties.
- 12-104. Air pollution.
- 12-105. Standards.

12-101. Definitions. Within the codes adopted by reference in this title, whenever reference is made to the duties of a certain official named therein, it shall mean building official designated in this chapter by the board of mayor and aldermen to administer and enforce the provisions of the codes adopted in this title. (Ord. #7-2001, July 2001)

12-102. Position established. There is established the position of building official. (Ord. #7-2001, July 2001)

12-103. Duties. The building official shall be charged with the enforcement of the various building, housing, plumbing, electrical, and gas codes of the town, including standards for existing buildings and unsafe building abatement. Included in his duties will be the review and compliance

¹Municipal code references

Electricity and gas: title 19.

Fire protection and fireworks: title 7.

Planning and zoning: title 14.

Streets and sidewalks, etc.: title 16.

Waters and sewers: title 18.

recommendations for all public buildings, structures, and installations owned by the town. The building official shall periodically review the permits and fees required under his areas of responsibility and shall recommend at least yearly any changes that he deems to be in the best interests of the town. Additionally, he shall have such other duties as are provided by ordinance or those that may be assigned by the board of mayor and aldermen. Nothing in this provision shall prevent the building official from delegating part of these duties to others including town employees or those contracted by the town. (Ord. #7-2001, July 2001)

12-104. Air pollution. The building official shall be the person in charge of all air pollution and air pollution related matters which require coordination with state and federal agencies. The building official may designate others to perform these duties as required for timely response. (Ord. #7-2001, July 2001)

12-105. Standards. JCC 2003 Edition (most current edition and any revisions or updates thereafter), is hereby adopted by reference and incorporated into this code as if it were set out at length herein and shall be controlling within the corporate limits. (Ord. #39-2004, July 2004)

CHAPTER 2

BUILDING CODE

SECTION

- 12-201. Building code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Procedures.
- 12-205. Violations.

12-201. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the Standard Building Code¹ 1994 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 building code. (1992 Code, § 12-101)

12-202. Modifications. (1) Definitions. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the building code.

(2) Permit fees. The schedule of building permit fees shall be as follows:

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

SCHEDULE OF BUILDING PERMIT FEES
SURGOINSVILLE, TN

(a) Permit fees.

<u>Total Valuation</u>	<u>Fee</u>
\$100.00 and less	No fee, unless inspection required in which case a \$5.00 fee for each inspection shall be charged.
\$101.00 to \$2,000.00	\$5.00 per thousand or fraction thereof.
\$2,001.00 to \$15,000.00	\$10.00 for the first \$2,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$15,000.00.
\$15,001.00 to \$50,000.00	\$49.00 for the first \$15,000.00 plus \$2.50 for each additional thousand or fraction thereof to and including \$50,000.00.
\$50,001.00 to \$100,000.00	\$136.50 for the first \$50,000.00 plus \$2.00 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,001.00 to \$500,000.00	\$236.50 for the first \$100,000.00 plus \$1.25 for each additional thousand or fraction thereof, to and including \$500,000.00.
\$500,001.00 and up	\$736.50 for the first \$500,000.00 plus \$.75 for each additional thousand or fraction thereof.

(b) Moving of building or structures. For the moving of any building or structure, the fee shall be fifty dollars (\$50.00).

(c) Demolition of building or structures. For the demolition of any building or structures, the fee shall be twenty-five dollars (\$25.00).

(d) Where work for which a permit is required by this code is started or proceeded with prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein. (1992 Code, § 12-102)

12-203. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502 one (1) copy of the building code

has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-103)

12-204. Procedures. (1) Anyone desiring a building permit, demolition permit, or moving building permit shall apply at the recorder's office during normal business hours. Each application shall be accompanied by a non-refundable fifteen dollar (\$15.00) application fee payable to the recorder. If a building permit is issued, this amount shall be applied to reduce the building permit price.

(2) Anyone desiring to build a residence must obtain a septic permit from the Hawkins County Health Department before a building permit will be issued. (1992 Code, § 12-105)

12-205. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1992 Code, § 12-104)

CHAPTER 3

PLUMBING CODE

SECTION

- 12-301. Plumbing code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Procedures.
- 12-305. Violations.

12-301. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the Standard Plumbing Code,¹ 1994 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1992 Code, § 12-201)

12-302. Modifications. (1) Definitions. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen.

Wherever "Town Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the plumbing code.

(2) Permit fees. The permit fee for a plumbing permit shall be twenty-five dollars (\$25.00). (1992 Code, § 12-202)

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-203)

12-304. Procedures. Anyone desiring a plumbing permit shall apply at the recorder's office during normal business hours. Each application shall be

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

accompanied by a non-refundable five dollar (\$5.00) application fee payable to the recorder. (1992 Code, § 12-205)

12-305. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1992 Code, § 12-204)

CHAPTER 4

ELECTRICAL CODE¹

SECTION

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

12-401. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,² 1994 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1992 Code, § 12-301)

12-402. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-302)

12-403. Permit required for doing electrical work. No electrical work shall be done within this town until a permit therefor has been issued by the electrical inspector. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1992 Code, § 12-303)

12-404. Enforcement. Currently electrical inspectors are made by a representative of Holston Electric Cooperative. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical

¹Municipal code reference

Fire protection and fireworks: title 7.

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

equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1992 Code, § 12-305)

12-405. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-17-143 for electrical inspections by deputy inspectors of the state fire marshal. (1992 Code, § 12-306)

12-406. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1992 Code, § 12-304)

CHAPTER 5

GAS CODE¹

SECTION

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

12-501. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the town. The following definitions are provided for the purpose of interpretation and administration of the gas code.

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

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

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

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

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers. (1992 Code, § 12-401)

12-502. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall

¹Municipal code reference

Gas system administration: title 19, chapter 2.

conform to the requirements of this chapter and to the Standard Gas Code,¹ 1994 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the town recorder for the use and inspection of the public. (1992 Code, § 12-402)

12-503. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1992 Code, § 12-403)

12-504. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the town recorder a good and sufficient bond in the penal sum of ten thousand dollars (\$10,000), with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the town recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

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

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1992 Code, § 12-404)

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

12-505. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen. (1992 Code, § 12-405)

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

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

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1992 Code, § 12-406)

12-507. Permits. Except when work in a public street or other public way is involved the gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (1992 Code, § 12-407)

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

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure

equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1992 Code, § 12-408)

12-509. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1992 Code, § 12-409)

12-510. Fees. The permit fee for a gas installation permit shall be twenty-five dollars (\$25.00) per installation payable to the recorder. (1992 Code, § 12-410)

12-511. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1992 Code, § 12-411)

CHAPTER 6

HOUSING CODE

SECTION

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

12-601. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,¹ 1994 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 housing code. (1992 Code, § 12-501)

12-602. Modifications. (1) Definitions. Wherever the housing code refers to the "Housing Official" it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the housing code. Wherever the "Department of Law" is referred to it shall mean the town attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the board of mayor and aldermen.

(2) Penalty clause deleted. Section 108 of the housing code is deleted. (1992 Code, § 12-502)

12-603. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the housing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1992 Code, § 12-503)

12-604. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1992 Code, § 12-504)

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

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. INOPERATIVE MOTOR VEHICLES.
5. OVERGROWN AND DIRTY LOTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
 13-102. Stagnant water.
 13-103. Dead animals.
 13-104. Health and sanitation nuisances.

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. (1992 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. (1992 Code, § 13-102)

13-103. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the recorder and dispose of such animal in such manner as the recorder shall direct. (1992 Code, § 13-103)

¹Municipal code references

Animals control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-212(9).

13-104. 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. (1992 Code, § 13-104)

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of order.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq. the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. (1992 Code, § 13-201)

13-202. Definitions. (1) "Municipality" shall mean the Town of Surgoinville, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

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

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

(4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

state relating to health, fire, building regulations, or other activities concerning structures in the town.

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

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

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1992 Code, § 13-202)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the mayor. (1992 Code, § 13-203)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in court of law or equity shall not be controlling in hearings before the public officer. (1992 Code, § 13-204)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order: (1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or (2) if the repair, alteration or improvement of said structure

cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (1992 Code, § 13-205)

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (1992 Code, § 13-206)

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (1992 Code, § 13-207)

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the office of the register of deeds of Hawkins County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed upon the tax rolls of Hawkins County 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. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Hawkins County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the Town of Surgoinsville to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1992 Code, § 13-208)

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Surgoinsville; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. (1992 Code, § 13-209)

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Hawkins County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1992 Code, § 13-210)

13-211. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such suit in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (1992 Code, § 13-211)

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;

- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1992 Code, § 13-212)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (1992 Code, § 13-213)

CHAPTER 3

JUNKYARDS

SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Non-conforming junkyards.
- 13-308. Location along municipal streets.
- 13-309. Location of vehicle junkyards.
- 13-310. Maintenance of junkyards.
- 13-311. Rulemaking power of code enforcement officer.
- 13-312. Nuisance - injunction.
- 13-313. Work permit required.
- 13-314. Violations - penalties.

13-301. Definitions. (1) "Automobile graveyard" means any establishment, private property, 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. Five (5) or more such vehicles will constitute an automobile graveyard.

(2) "Municipal street" means any street within the municipality that is maintained by the municipality.

(3) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(4) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(5) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing,

keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

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

(7) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the town. (1992 Code, § 13-301)

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (1992 Code, § 13-302)

13-303. Screening methods. The following methods and materials for screening are given for consideration only:

(1) Landscape planting. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) Earth grading. The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood.

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (1992 Code, § 13-303)

13-304. Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the town. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(1) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

(2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(3) Screening shall be located on private property and not on any part of the highway right-of-way.

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (1992 Code, § 13-304)

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the town.

If not replaced within sixty (60) days the town shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the town. (1992 Code, § 13-305)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (1992 Code, § 13-306)

13-307. Non-conforming junkyards. Those junkyards within the town and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming". Such junkyards may be subject to the following conditions, any violation of which shall terminate the non-conforming status:

- (1) The junkyard must continue to be lawfully maintained.
- (2) There must be existing property rights in the junk or junkyard.
- (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason.

If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the town.

(5) The junkyard may not be extended or enlarged. (1992 Code, § 13-307)

13-308. Location along municipal streets. No person shall establish, operate, or maintain a junkyard, any portion of which is within one thousand (1,000) ft. of the nearest edge of the right of way of any municipal street except the following:

- (1) Those which are screened by natural objects, plantings, fences or other appropriate means, or otherwise removed from sight;
- (2) Those located within areas which are zoned for industrial use.
- (3) Those located within unzoned industrial areas, which areas shall be determined from the actual land use and defined by regulations to be promulgated by the Zoning Board of the municipality.

(4) Those which are not visible from the traveled way of the system. (1992 Code, § 13-308)

13-309. Location of vehicle junkyards. (1) On or after July 1, 1981, it shall be unlawful for any junkyard located within one thousand (1,000) feet of the nearest edge of the municipal right of way to operate without a junkyard control permit, which permits are hereby authorized to be issued by the municipality.

(2) Permits shall be valid for the fiscal years for which issued and shall be subject to renewal from year to year.

(3) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (50.00) which is not subject to either proration or refund.

(4) All fees shall be deposited in the general fund for the administration of this ordinance. (1992 Code, § 13-309)

13-310. Maintenance of junkyards. Such yards shall be so maintained as to be in a sanitary condition, and so as not to be a menace to the public health or safety. (1992 Code, § 13-310)

13-311. Rulemaking power of code enforcement officer. The code enforcement officer is hereby given the authority to promulgate and enforce rules and regulations required to carry out the provisions of this ordinance. (1992 Code, § 13-311)

13-312. Nuisance - injunction. The municipality may apply to any court in the county in which said junkyard is located for an injunction to abate such nuisance. The district attorney generals are authorized to assist the municipality in the enforcement of this ordinance. (1992 Code, § 13-312)

13-313. Work permit required. Any owner or operator of a business establishment covered within this ordinance shall present upon request by the code enforcement officer a current, valid work permit pertaining to each vehicle in excess of the number of vehicles allowed by § 13-301(1). The permit shall include, but not be limited to the lawful owner of the vehicle, the nature of the repair work requested, the date of the repair agreement, and an approximate, reasonable anticipation of repair completion. (1992 Code, § 13-313)

13-314. Violations - penalties. Any person who shall establish, operate or maintain a junkyard, or who shall fail to obtain a permit contrary to the provisions of this ordinance, shall be guilty of a misdemeanor and shall be fined twenty five-dollars (\$25.00) and costs for each day of violation. Each day's subsequent violation shall constitute a separate offense. (1992 Code, § 13-314)

CHAPTER 4

INOPERATIVE MOTOR VEHICLES

SECTION

- 13-401. Declaration of purpose.
- 13-402. Storage on private property restricted.
- 13-403. Removal required.
- 13-404. Notice to remove.
- 13-405. Refusal to remove.
- 13-406. Removal by town.
- 13-407. Entry to remove; removal by owner.

13-401. Declaration of purpose. In enacting this chapter, the board of mayor and aldermen finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicles, on private property, which motor vehicles are in the nature of rubbish and unsightly debris, violates, in many instance detrimental to the healthy, safety, and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property; invite plundering, create fire hazards and other safety and health hazards to minors as well as adults, interfere with the comfort and well being of the public and create, extend, and aggravate urban blight, and that the public health, safety, and general welfare require that such conditions be regulated, abated, and prohibited. (1992 Code, § 13-401)

13-402. Storage on private property restricted. It shall be unlawful to park, store, or leave, or to permit the parking or storing of any licensed or unlicensed motor vehicle of any kind, for a period in excess of thirty (30) days, when such vehicle is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the town unless the same is completely enclosed within a building or is completely hidden from view behind a fence, unless it is in connection with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise. (1992 Code, § 13-402)

13-403. Removal required. The accumulation and storage of one or more such motor vehicle in violation of the provisions of this chapter shall constitute rubbish and debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the town. It shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the private property upon which such motor vehicle is located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the

same to a place of lawful storage, or to have the motor vehicle housed within a building or behind a sight obscuring screen to the public. (1992 Code, § 13-403)

13-404. Notice to remove. Whenever there is reasonable grounds to believe that a violation of the provisions of this chapter exists, the recorder shall give, or cause to be given, written notice to the registered owner of any motor vehicle which is in violation of this chapter, or shall give such notice to the owner or person in lawful possession or control of the private property upon which such motor vehicle is located, or shall give such notice to both the registered owner and to the owner or person in lawful possession or control of such private property that said motor vehicle violates the provisions of this chapter, and demand that said motor vehicle be removed to a place of lawful storage within thirty (30) days, or that within thirty (30) days, the same be housed in a building where it will not be visible or behind sight obscuring screen to the public. Service of such notice shall be by mail duly posted, return receipt required. (1992 Code, § 13-404)

13-405. Refusal to remove. Any person who fails, neglects, or refuses to remove the abandoned, wrecked, junked, partially dismantles, or inoperative motor vehicle or house the same and abate said nuisance in accordance with the notice as provided herein, shall be in violation of the provisions of this chapter and any person found to be in violation of chapter shall be guilty of a misdemeanor and subject to a fine of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) upon conviction of said offense in the Town of Surgoinsville Municipal Court. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (1992 Code, § 13-405)

13-406. Removal by town. In addition to and not in lieu of any other procedure prescribed in this chapter or in this code for removal of abandoned motor vehicles from private property, if the registered owner of any motor vehicle which is in violation of this chapter or the owner or person in lawful possession or control of the private property upon which the same is located shall fail, neglect, or refuse to remove or house such abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle in accordance with the notice given pursuant to the provisions of this chapter, the recorder may remove and dispose of such motor vehicle in the manner provided for by chapter 16 of title 55, Tennessee Code Annotated, particularly §§ 55-16-103, 55-16-104, and 55-16-106. He may therefore maintain an action in the name of the town, in the appropriate court, against any person or persons upon whom notice was served as required by this chapter to recover the costs of removing and disposing of such motor vehicle in the event the proceeds of any sale thereof shall be insufficient to recover such costs. (1992 Code, § 13-406)

13-407. Entry to remove; removal by owner. The recorder, code enforcement officer, chief of police, any regularly employed and salaried officer of the police department of the town, contracting agents, and authorized officers, employees, and agents of the Town of Surgoinville and each of them, are hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this chapter. It shall be unlawful for any person to interfere with, hinder, or refuse to allow them to enter upon private property for such purpose and to remove any motor vehicle in accordance with the provision of this chapter. Any person to whom notice was given pursuant to this chapter shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense at any time prior to the arrival of the recorder, codes enforcement officer or his authorized representatives for the purpose of removal. (1992 Code, § 13-407)

CHAPTER 5

OVERGROWN AND DIRTY LOTS

SECTION

- 13-501. Prohibition.
- 13-502. Designation of public officer or department.
- 13-503. Notice to property owner.
- 13-504. Clean-up at property owner's expense.
- 13-505. Appeal.
- 13-506. Judicial review.
- 13-507. Supplemental nature of this section.

13-501. Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals. (1992 Code, § 13-501)

13-502. Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section. (1992 Code, § 13-503)

13-503. Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. 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:

(1) A brief statement that the owner is in violation of title 13, chapter 4 of the Surgoinsville 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;

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

- (3) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and
- (4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.
- (5) The property owner shall be issued a summons after expiration of time of remedy. (1992 Code, § 13-504)

13-504. Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Hawkins County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These cost 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. (1992 Code, § 13-505)

13-505. Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the recorder within ten (10) days following the receipt of the notice issued pursuant to § 13-404 above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing. (1992 Code, § 13-506)

13-506. Judicial review. Any person aggrieved by an order or act of board of mayor and aldermen under § 13-405 above may seek judicial review of the order or act. The time period established in § 13-404 above shall be stayed during the pendency of judicial review. (1992 Code, § 13-507)

13-507. Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner,

tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1992 Code, § 13-508)

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.
4. STORMWATER, EROSION, AND SEDIMENTATION CONTROL.
5. MOBILE HOME PARKS.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

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

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members each of whom shall be a resident of the planning area; two (2) of these shall be the mayor or a person designated by the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (5) and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (1992 Code, § 14-101, as amended by Ord. #64-2007, June 2007)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1992 Code, § 14-102)

14-103. Additional powers.¹ Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1992 Code, § 14-103)

¹To make this section effective the municipality should request the State Planning Office, under authority granted by Tennessee Code Annotated, § 13-3-102 to designate the municipal planning commission as a regional planning commission.

CHAPTER 2

ZONING ORDINANCE

SECTION

- 14-201. Authority.
- 14-202. Short title.
- 14-203. Purpose.
- 14-204. Definitions.
- 14-205. Classification of districts.
- 14-206. Application of regulations.
- 14-207. General provisions.
- 14-208. Provisions governing use districts.
- 14-209. Area, yard, and height requirements.
- 14-210. Exceptions and modifications.
- 14-211. Enforcement.
- 14-212. Board of zoning appeals.
- 14-213. Amendment.
- 14-214. Legal status provisions.

14-201. Authority. An ordinance, in pursuance of the authority granted by Tennessee Code Annotated, §§ 13-701 through 13-710 and § 13-716, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare; to provide for the establishment of districts within the corporate limits; to regulate, within such districts, the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the uses of land, buildings and structures; to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof. (Authority) (1992 Code, § 14-201, as amended by Ord. #63-2007, June 2007)

BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Surgoinsville:

14-202. Short title. This ordinance shall be known as the "Zoning Ordinance of the Town of Surgoinsville, Tennessee," and the map herein referred to, which is identified by the title "Zoning Map of the Town of Surgoinsville, Tennessee," dated December 18, 1975¹ and all explanatory matter

¹This map has been amended by ordinances of record in the office of the recorder.

thereon are hereby adopted and made a part of this ordinance. (1992 Code, § 14-202, as amended by Ord. #63-2007, June 2007)

14-203. Purpose. The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, flood, panic and overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its particular suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the town. (1992 Code, § 14-203, as amended by Ord. #63-2007, June 2007)

14-204. Definitions. Unless otherwise stated the following words shall, for the purpose of this ordinance, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not directory. The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended," arranged or designed to be used or occupied.

(1) "Alley:" Any public or private way set aside for public travel, twenty (20) feet or less in width.

(2) "Boarding or rooming house:" A building containing a single dwelling unit and not more than five guest rooms where lodging is provided with or without meals for compensation.

(3) "Buffer strip:" A plant material acceptable to the building inspector which has such growth characteristics as will provide an obscuring screen not less than six (6) feet in height.

(4) "Building:" Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, or chattel.

(a) "Principal building:" A building in which is conducted the main or principal use of the lot on which said building is located.

(b) "Accessory building or use:" A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such building or use.

(5) "Building height:" The vertical distance measured from the finished grade at the building line to the highest point of the roof.

(6) "Business sign:" A sign which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign for the property on which it is displayed shall be deemed a business sign.

(7) "Dwelling:" A building designed or used as the permanent living quarters for one or more families.

(8) "Family:" One or more persons occupying a premise and living together as a single housekeeping unit.

(9) "Lot:" A parcel of land which fronts on and has access to a public street and which is occupied or intended to be occupied by a building or buildings with customary accessories and open space.

(a) "Lot line:" The boundary dividing a given lot from a street, alley, or adjacent lots.

(b) "Lot of record:" A lot, the boundaries of which are filed as legal record.

(10) "Mobile home:" A detached single-family dwelling unit with all of the following characteristics: Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels; and arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

(11) "Mobile home park:" Shall mean any plot of ground containing a minimum of two acres upon which two (2) or more mobile homes are located or are intended to be located (does not include sites where unoccupied mobile homes are on display for sale).

(12) "Nonconforming use:" Any structure or land lawfully occupied by a use that does not conform to the use regulations of the district in which it is situated.

(13) "Nursing home:" One licensed by the State of Tennessee.

(14) "Outdoor advertising:" An attached, free standing or structural poster panel or painted or lighted sign for the purpose of conveying some information, knowledge or idea to the public.

(15) "Story:" That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy other than for a janitor or domestic employee shall not be counted as a story.

(16) "Street:" Any public or private way set aside for public travel, twenty-one (21) feet or more in width. The word "street" shall include the words "road," "highway" and "thoroughfare."

(17) "Structure:" Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

(18) "Total floor area:" The area of all floors of a building including finished attic, finished basement and covered porches.

(19) "Yard:" An open space on the same lot with a principal building, open, unoccupied and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance.

(a) "Front yard:" The yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building, including covered porches.

(b) "Side yard:" A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches.

(c) "Rear yard:" The yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building, including covered porches. (1992 Code, § 14-204, as amended by Ord. #63-2007, June 2007)

14-205. Classification of districts. (1) For the purpose of this ordinance, Surgoinsville, Tennessee is hereby divided into eight (8) districts, designated as follows:

Residence	- R-1 District	- Low Density
Residence	- R-3 District	- High Density
Business	- B-1 District	- Neighborhood Business
Business	- B-2 District	- Arterial Business
Business	- B-4 District	- Intermediate Business
Industrial	- M-1 District	- Light Industrial
Industrial	- M-2 District	- Heavy Industrial

(2) The boundaries in this section are established, as shown on the map entitled "Zoning Map of Surgoinsville, Tennessee." Dated January 2002, which is a part of this ordinance and which is on file in the office of the town recorder.

(3) Unless otherwise indicated on the zoning map, the boundaries are lot lines, the centerlines of streets or alleys or a specified district therefrom, or the corporate limit lines as they existed at the time of the enactment of the ordinance. The building inspector shall determine questions concerning the exact locations of district boundaries and his/her decision may be appealed to the Town of Surgoinsville Board of Zoning Appeals. (Ord. #27-2002, Dec. 2002, as amended by Ord. #63-2007, June 2007)

14-206. Application of regulations. Except as herein provided:

(1) Use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly

permitted by and in conformity with the regulations herein specified for the district in which it is located.

(2) Street frontage. No dwelling shall be erected on a lot which does not abut on least one street for at least forty (40) feet, except that lots fronting on cul-de-sacs may have a minimum road frontage of thirty (30) feet if the lot is at least fifty (50) feet in width at the building line.

(3) Corner lots. The minimum width of a side yard along an intersecting street shall be fifty percent (50%) greater than the minimum side yard requirements of the district in which the lot is located.

(4) One principal building on a lot. Only one principal building and its customary accessory buildings may hereafter be erected on any lot.

(5) Reduction of lot size. No lot shall be reduced in area so that yards, lot area per family, lot width, building area or other provisions of this ordinance shall not be maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

(6) Yard and other spaces. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building.

(7) Conformity to subdivision regulations. No building permit shall be issued for or no building shall be erected on any lot within the municipality, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Surgoinsville Regional Planning Commission and such approval entered in writing on the plat by the secretary of the commission.

(8) Customary accessory-buildings in residential districts. Accessory buildings are permitted provided they are located in rear yards and not closer than five (5) feet to any property line. Accessory buildings shall also comply with the setback from the intersecting street.

(9) Building area. On any lot, within an R-1 Residential District, the area occupied by all buildings including accessory buildings, shall not exceed thirty (30) percent of the total area of such lot. In R-3 Residential Districts, lot area occupied by all buildings including accessory buildings, shall not exceed thirty-five (35) percent of the total area of such lot.

(10) Height and density. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the district in which it is located.

(11) Annexations. All territory which may hereafter be annexed to the

Town of Surgoinsville, Tennessee shall be considered to be in the R-1 Low Density Residential District until otherwise classified. (1992 Code, § 14-206, as amended by Ord. #63-2007, June 2007)

14-207. General provisions. (1) Continuance of nonconforming uses. Any lawful use of any building or land existing at the time of the enactment of this ordinance or whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of this ordinance with the following limitations:

(a) No building or land containing a nonconforming use shall hereafter be extended unless such extensions shall conform with the provisions of this ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of building which were manifestly arranged or designed for such use prior to the time of enactment of this ordinance.

(b) Any nonconforming building which has been damaged by fire or other causes, may be reconstructed and used as before unless the building inspector determines that the building is damaged to the extent of more than seventy-five (75) percent of its appraised value for tax purposes in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance.

(c) When a nonconforming use of any building or land has ceased for a period of one year, it shall not be reestablished or changed to any use not in conformity with the provisions of this ordinance.

(d) All nonconforming outdoor advertising signs, junk yards, commercial animal yards, and lumber yards not on the same lot with a plant or factory shall be required to conform to the provisions of this ordinance within three (3) years from December 18, 1975 upon official notification by the building inspector.

(e) Nonconforming mobile home - a mobile home deemed to be a legal nonconforming structure or use at the time of the adoption of this ordinance, or any amendment thereto may not, after its removal from the lot upon which it is situated, be reestablished or replaced by another or the same mobile home, if said structure is not established within thirty (30) days of its removal.

(2) Obstruction of vision at street intersections prohibited. On a corner lot in all districts except the B-3 (Central) Business District, no fence, wall, shrubbery, or other obstruction to vision between the height of three (3) feet and ten (10) feet above the street grade shall be permitted within twenty (20) feet of the intersection of the right-of-way of streets or of streets and railroads.

(3) Off-street automobile parking. Off-street automobile parking space shall be provided on every lot on which any of the following uses are hereafter established except in the B-3 (Central Business) District. The number of automobile parking spaces provided shall be at least as great as the number

specified below for various uses. Each space shall have at least two hundred (200) square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street.

(a) Automobile repair garages: One (1) space for each regular employee plus one (1) space for each two hundred fifty (250) square feet of floor space used for repair work.

(b) Churches: One (1) space for each four (4) seats.

(c) Clubs and lodges: One (1) space for each three hundred (300) square feet of floor space over one thousand (1,000) square feet.

(d) Dwellings: One (1) space for each dwelling unit.

(e) Funeral parlors: One (1) space for each four (4) seats in the chapel.

(f) Gasoline service stations and similar establishments: Two (2) spaces for each bay or similar facility plus one space for each employee.

(g) Hospitals and nursing homes: One (1) space for each two (2) staff or visiting doctors plus one space for each two employees and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any period of time.

(h) Hotel: One (1) space for each four (4) employees plus one (1) space for each two (2) guest rooms.

(i) Industry: One (1) space for each three (3) employees, computed on the largest number of persons employed at any period during day or night.

(j) Motels and tourist courts: One (1) space for each four (4) employees plus one space for each accommodation.

(k) Offices: Medical - one (1) space for each three hundred (300) square feet of floor space.

Other professional - one (1) space for each four hundred (400) square feet of floor space.

General - one (1) space for each four hundred (400) square feet of floor space.

(l) Places of public assembly: One (1) space for each four (4) seats in the principal assembly room or area.

(m) Recreation and amusement areas without seating capacity: One (1) space for each five (5) customers, computed on maximum service capacity.

(n) Restaurants: One (1) space for each four (4) employees, plus one (1) space for each one hundred (100) square feet of floor space devoted to patron use.

(o) Retail business and similar uses: One (1) space for each two hundred (200) square feet of gross floor space.

(p) Schools: One (1) space for each faculty member, plus one (1) space for each four (4) pupils except in elementary and junior high schools.

(q) Mobile home parks: Shall meet the requirements of the Surgoinsville Mobile Home Park Ordinance.

(r) Wholesale business: One (1) space for each three (3) employees based on maximum seasonal employment.

(s) If off-street parking space required above cannot be reasonably provided on the same lot on which the principal use is conducted, the board of zoning appeals may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use. Such vehicle parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

(t) Extension of parking space into a residential district: Required parking space may extend up to one hundred twenty (120) feet into a residential zoning district, provided that: (1) the parking space adjoins a commercial or industrial district; (2) has its only exit to or from upon the same street as the property in the commercial or industrial district from which it provides the required parking space; and (3) is separated from abutting properties in the residential district by a plant or fence buffer strip as determined by the building inspector.

(4) Off-street loading and unloading space. On every lot on which a business, trade, or industry use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley:

(a) Retail business: One (1) space of at least 12 x 25 feet for each three thousand (3,000) square feet of floor area or part thereof.

(b) Wholesale and industrial: One (1) space of at least 12 x 50 feet for each ten thousand (10,000) square feet of floor area or part thereof.

(c) Terminals: Sufficient space to accommodate the maximum number of vehicles that will be stored and loading and unloading at the terminal at any one time.

(5) Mobile homes. The use of a single wide mobile home other than as a residential dwelling in a licensed and approved mobile home park is prohibited. A mobile home may be used as a residential dwelling in a mobile home park provided that:

(a) The mobile home is made a permanent or semi-permanent structure, which shall include, but not be limited to, proper underpinning and storm and windproofing of the structure.

(b) The provisions of the building code, plumbing code and electrical code and all other town codes and ordinances are complied with.

(6) Flood protection. Any structure proposed to be located within one-hundred (100) feet of any main drainage channel or stream (hereafter referred to as a stream) within the Town of Surgoinsville, Tennessee must be approved by the Surgoinsville Regional Planning Commission. Prior to granting such approval the planning commission may require the subdivider to determine on the basis of the area of the watershed and the probable runoff, the openings needed for the stream and how close a structure may be built to the stream in order to assure adequate space for flow of flood water, such determination to be made by a competent licensed engineer. However, in no case shall a building or structure be permitted within fifteen (15) feet of the top of the bank of any stream.

(a) Liability. The granting of approval of any structure or use shall not constitute a representation, guarantee, or warranty of any kind or nature by the Town of Surgoinsville or the Surgoinsville Regional Planning Commission, or by any officer or employee of either thereof, or the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer, or employee for any damage that may result pursuant thereto. (1992 Code, § 14-207, as amended by Ord. #63-2007, June 2007)

14-208. Provisions governing use districts. (1) R-1 (Low Density Residential District). It is the intent of this district to establish, low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements for the district are designed to protect essential characteristics of the district, to promote and encourage an environment for family life and to prohibit all business activities. In order to achieve the intent of the R-1 (Low Density) Residential District, as shown on the Zoning Map of the Town of Surgoinsville, Tennessee, the following uses are permitted:

(a) Single family dwellings.
 (b) Two family dwellings.
 (c) Customary general farming.
 (d) Customary home occupation provided that: there is no external evidence of the occupation except on announcement sign not more than two (2) square feet in area; that only one person, not a resident of the dwelling is employed; and not more than 25 percent of the total floor area of the dwelling is used.

(e) Public owned buildings and uses, public and private schools offering general education, and churches provided that:

(i) The location of these uses shall first be reviewed by the Surgoinsville Planning Commission.

(ii) They meet any safeguards set forth in the review by the planning commission.

(2) R-3 (High Density) Residential District. It is the intent of this district to provide an area for single and multifamily dwellings, to encourage development and continued use of land for residential purposes; to prohibit land use for business and/or industrial activities and other land uses which would interfere with the residential character of the district. In order to achieve the intent of the R-3 (High Density) Residential District, as shown on the Zoning Map of the Town of Surgoinsville, Tennessee, the following uses are permitted:

(a) Any use permitted in the R-1 Residential District, provided that the floor area used for the taking of boarders and tourists or the leasing of rooms by the family resident on the premises may not exceed sixty (60) percent of the total floor area of any dwelling.

(b) Multiple family dwellings.

(c) Mobile home parks provided that they meet requirements of the Surgoinsville Mobile Home Park Ordinance.

(3) B-1 (Neighborhood) Business District. It is the intent of this district to establish business areas to serve the surrounding residential districts. The neighborhood business district is intended to discourage strip business development and to encourage the grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to achieve the intent of the B-1 (Neighborhood) Business District, as shown on the Zoning Map of the Town of Surgoinsville, Tennessee, the following uses are permitted:

(a) Any use permitted in the R-3 Residential District, except for mobile home parks.

(b) Shopping centers.

(c) Grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, laundromats, and laundry pick-up stations, restaurants, and similar uses.

(d) Business signs provided that all signs, except one detached sign, shall be erected flat against front side of a building or within two feet (24 inches) thereof. All signs shall not project above buildings nor have flashing intermittent or moving illumination.

(e) Gasoline service stations provided that all structures, including underground storage tanks, shall be placed not less than twenty (20) feet from all property lines. Points of ingress and egress shall not be less than fifteen (15) feet from intersection of street lines.

(4) B-2 (Arterial) Business District. It is the intent of this district to establish business areas that encourages groupings of compatible business activities; reduce traffic congestion to a minimum and enhance the aesthetic atmosphere of the Town of Surgoinsville.

(a) Any use permitted within a B-1 Neighborhood Business District.

(b) Hotels and motels.

- (c) Restaurants.
- (d) Offices.
- (e) Funeral homes.
- (f) Public and semi-public buildings and uses.

(5) B-3 (Central) Business District. It is the intent of this district to establish an area for concentrated general business development that the general public requires. The requirements are designed to protect the essential characteristics of the district by promotion of business and public uses which serve the general public and to discourage industrial, and wholesale development which do not lend themselves to pedestrian traffic. In order to achieve the intent of the B-3 (Central) Business District, as shown on the Zoning Map of Surgoinsville, Tennessee, the following uses are permitted:

- (a) Stores and shops conducting retail business.
- (b) Personal, business, and professional services.
- (c) Public and semi-public buildings and uses provided that public and semi-public buildings and uses shall first be reviewed by the Surgoinsville Planning Commission.
- (d) Business signs, parking lots and garages, and advertising signs.
- (e) Lodges and clubs, hotels and motels, and restaurants.

(6) B-4 (Intermediate) Business District. It is the intent of this district to establish an area adjacent to the B-3 (Central) Business District which will support those uses and to encourage commercial development to concentrate to the mutual advantage of consumers as well as to provide for transactions of the district, thereby strengthening the economic base and protecting public convenience. In order to achieve the intent of the B-4 (Intermediate) Business District, as shown on the Zoning Map of the Town of Surgoinsville, Tennessee, the following uses are permitted:

- (a) Any use permitted in B-3 Central Business District except advertising, signs, business signs are permitted provided that all signs, except one detached sign, shall be erected flat against the side of a building or within two feet (24 inches) thereof. All signs shall not project above buildings nor have flashing intermittent or moving illumination.
- (b) Any use permitted in R-3 Residential District except mobile home parks.
- (c) Hospitals and nursing homes.
- (d) Places of amusement and assembly.
- (e) Auto and mobile home sales.
- (f) Places of amusement and assembly.
- (g) Travel trailer parks.
- (h) Lodges and clubs.

(7) H-1 (Historic District). It is the intent of this district to preserve historic buildings and sites in the Town of Surgoinsville. The requirements of the district are designed to protect and preserve historic buildings and sites; and

ensure that buildings and landscaping on non-historic sites blend with and do not overpower historic buildings. In order to achieve the intent of the H-1 (Historic) District, as shown on the Zoning Map of Surgoinsville, Tennessee the following regulations shall apply:

(a) Any use permitted in the underlying zoning district except single-wide mobile homes and/or single-wide modular office buildings.

(b) A twenty-five (25) foot planted buffer along side and rear property lines and a fifteen (15) foot planted buffer along the front property line will be required for properties adjoining lots with buildings on the National Registry of Historic Structures. The planted buffer strip may be waived by the planning commission with the reason documented in the minutes. Earth mounds shaped and seeded for a natural appearance or planted buffer strips may be used. The Surgoinsville Planning Commission will review and approve earth mounds and planted buffers individually because of varying topographical conditions, soil types, and types of screening vegetation. Buffer plans must be drawn by a person trained in horticulture or equivalent experience and/or training. All plants and vegetation used in buffer strips must be maintained, and dead plants replaced with reasonably sized plants in relation to existing vegetation. A two (2) year maintenance bond or letter of credit will be required to ensure proper maintenance for the first two (2) years. The planning commission may approve placing the buffer strip on the adjoining historic property if the adjoining historic property owners agree.

(c) Application for a building permit shall be made to the building inspector prior to the commencement of any construction, alteration, repair, moving, or demolition to be carried on within the district. No permit shall be issued by the building inspector within the H-1 (Historic) District until it is submitted to and receives approval in writing by the historic zoning commission. The historic zoning commission may, however, prepare a listing of prior approvals permitted in the historical district.

(8) Light Industrial District (M-1). It is the intent of this district to establish industrial areas along with open areas that will likely develop in a similar manner. It is the intent that permitted uses are conducted so that noise, odor, dust, and glare of each operation are kept to a minimum. The industrial district is established to provide areas in which the principal use of land is for manufacturing and assembly plants, processing, storage, warehousing, wholesaling and distribution. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the Light Industrial District (M-1), site plans shall be required for all new construction.

These site plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and

size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Surgoinsville, Tennessee.

Within the M-1 Light Industrial District as shown on the zoning map of Surgoinsville, Tennessee, the following uses are permitted:

- (a) Any use permitted in the B-1, B-2 or B-4 districts.
- (b) Any industry which does not cause injurious or obnoxious noise, vibrations, smoke, gas fumes, odors, dust, fire hazard or other objectionable conditions.
- (c) Terminals.
- (d) Wholesale business, warehouses, storage yards, and buildings.
- (e) Bottling and packaging operations.
- (f) Bakeries.

(9) Heavy Industrial District (M-2). It is the intent of this district to establish industrial areas along with open areas that will likely develop in a similar manner. The requirements established in the district regulations are designed to protect the essential characteristics, to promote and encourage wholesaling and high impact business uses and to discourage residential development. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the Light Industrial District (M-1), site plans shall be required for all new construction. These site plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Surgoinsville, Tennessee.

Within the M-2 Heavy Industrial District as shown on the Zoning Map of Surgoinsville, Tennessee, the following uses are permitted:

- (a) Any use permitted in the M-1 District.
- (b) Lots or yard for scrap or salvage operations or for processing storage, display of scrap, salvage or secondhand building materials.
- (c) Meat products manufacturing.
- (d) Dying and finishing of textiles.
- (e) Paper and allied products manufacturing.
- (f) Chemicals and allied products manufacturing.
- (g) Rubber and miscellaneous plastic products manufacturing.
- (h) Automobile wrecking, salvage and junkyards provided that:
 - (i) All motor vehicles stored or kept in such yards shall be kept so that they will not catch or hold water in which mosquitoes may breed and so that they will not constitute a place

or places in which rats, mice or other vermin may be harbored, reared or propagated.

(ii) Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred (300) feet from any established residential zone.

(iii) All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed fence, screen or wall, excepting driveway areas, from eight (8) to twelve (12) feet in height. Storage between the road or street and such fence, screen, or wall is expressly prohibited. Any fence, screen, or wall for concealment shall be maintained in good condition.

(iv) All such yards shall be maintained as to be in sanitary condition and so as not to be a menace to public health or safety.

(v) Application for automobile wrecking, junk or salvage yard permit. No person shall own or maintain an automobile wrecking, junk or salvage yard within Surgoinsville until he/she has secured a permit from the Surgoinsville Building Inspector. A detailed site plan, a schedule for construction and any other information deemed necessary shall be submitted to the building inspector prior to the issuance of such permit.

(i) Mobile home wrecking or salvage yards provided that all mobile homes are set back a minimum of fifty (50) feet from all property lines and are adequately screened to prevent viewing from the public roads and adjoining properties.

(j) Adult oriented establishments. Area regulations.

(i) Front yard. All buildings shall be set back fifty (50) feet from all street right-of-way lines.

(ii) Side yard. All buildings shall have a side yard of at least twenty (20) feet. All side yards which abut a residential district shall be completely screened with plant material or fencing.

(iii) Rear yard. All lots shall have a minimum rear yard of at least thirty (30) feet. All rear lots which abut a residential district shall be completely screened with plant material or fencing.

(k) Small day care centers and adult care centers may be approved of Zoning and Appeals (BOZA) as a special exception if they find the use in harmony with the character of the district, and the proposed day care center meets the following conditions:

(i) They shall be limited to fifteen (15) children or persons, and be licensed by the state.

(ii) On arterial and collector streets will have to be evaluated on the basis of traffic volume, speed, and sight distance.

(iii) Off street drop off and pick up areas and parking facilities are required.

(iv) Site plans must show the drop off and pick up areas, parking facilities, outdoor activity areas, and setbacks from adjoining property.

(v) Planted buffers may be required depending on the topography, setbacks, etc. (1992 Code, § 14-208, as amended by Ord. #22-2002, Dec. 2002, Ord. #31-2003, Jan. 2004, Ord. #40-2004, Aug. 2004, and Ord. #63-2007, June 2007)

14-209. Area, yard, and height requirements.

District	Minimum Lot Area in Square Feet	Minimum Lot Width at Building Line	Minimum Yard Requirements From Property Lines			Maximum Height of Structures	Building Area
			Front	Side (Each Side)	Rear		
R-1	15,000	80 ft.	30 ft.	10 ft.	30 ft.	35 ft.	30%
R-3	15,000 plus 3,750 per each additional family over two	60 ft.	25 ft.	8 ft.	25 ft.	35 ft.	35%
B-1			30 ft.	10 ft.	25 ft.	35 ft.	
B-2			35 ft.	10 ft.	25 ft.	35 ft.	
B-3						35 ft.	
B-4			25 ft.	10 ft.	25 ft.	35 ft.	
M-1			40 ft.	20 ft.	25 ft.	75 ft.	

(1992 Code, § 14-209, as amended by Ord. #63-2007, June 2007)

14-210. Exceptions and modifications. (1) Lot of record. Where the owner of a lot consisting of one or more adjacent lots of official record at the time does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the board of zoning appeals for a variance from the terms of this ordinance. Such lot may be used as a building site, provided, however, that the yard and other

requirements of the district are complied with as closely as is possible in the opinion of the board of zoning appeals.

(2) Adjoining and vacant lots of record. A plat of land consisting of one or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by this ordinance, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subjected to the requirements of this ordinance.

(3) Front yards. The front yard requirements of this ordinance for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.

(4) Group housing projects. In the case of a group housing project or two or more buildings to be constructed on a plot of ground of at least one acre not subdivided into the customary streets and lots, and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this ordinance to the individual building units in such housing projects, a special exception to the terms of this ordinance may be made by the board of zoning appeals in a manner that will be in harmony with the character of occupancy and an intensity of land use no higher and a standard of open space no lower than that permitted by this ordinance in the district in which the project is to be located. However, in no case shall the board of zoning appeals authorize a use prohibited in the district in which the project is located, or a smaller lot area per family than the minimum required in such district, or a greater height, or a larger coverage than the requirements of this ordinance permit in such a district.

(5) Exception on height limits. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, mast and aerials. (1992 Code, § 14-210, as amended by Ord. #63-2007, June 2007)

14-211. Enforcement. (1) Enforcing officer. The provisions of this ordinance shall be administered and enforced by the municipal building inspector. This official shall have the right to enter upon any premises necessary to carry out his duties in the enforcement of this ordinance.

(2) Building permit required. It shall be unlawful to commence the excavation for or the construction of any building including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued for such work a building

permit including a statement that the plans, specifications and intended use of such building in all respects conform with the provisions of this ordinance. Application for a building permit shall be made to the building inspector.

(3) Issuance of building permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size, height, and location of all buildings to be erected, altered or moved, and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector. For determining whether the provisions of this ordinance are being observed. If the proposed excavation of construction as set forth in the application are in conformity with the provisions of this ordinance, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with cause.

(4) Certification of occupancy. Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the building inspector for a certificate of occupancy. Within three days of such application, the building inspector shall make a final inspection of the property in question, and shall issue a certificate of occupancy if the building or structure is found to conform to the provisions of the ordinance and the statements made in the application for the building permit. If such a certificate is refused, the building inspector shall state such refusal in writing, with the cause. No land or building hereafter erected or altered in its use, shall be used until such a certificate of occupancy has been granted.

(5) Penalties. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense.

(6) Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the building inspector or any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus or other appropriate action in proceeding to prevent the occupancy or use of such building. (1992 Code, § 14-211, as amended by Ord. #63-2007, June 2007)

14-212. Board of zoning appeals. (1) Creation and appointment. A board of zoning appeals is hereby established in accordance with, Tennessee Code Annotated, § 13-705 Volume 3, same being Section 5, Chapter 44 of Public Acts of Tennessee of 1935. The Surgoinsville Regional Planning Commission is hereby designated as the board of zoning appeals and the terms of the members

of the board of zoning appeals shall be concurrent with the terms of the members of the Surgoinsville Regional Planning Commission.

(2) Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record.

(3) Appeals: how taken. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the building inspector based in the whole or part on provisions of this ordinance. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

(4) Powers. The board of zoning appeals shall have the following powers:

(a) Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order requirement, permit, decision, determination or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provisions of this ordinance.

(b) Special exceptions. To hear and decide special exceptions to this ordinance as set forth in § 14-210.

(c) Variance. To hear and decide applications for variance from the terms of this ordinance, but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the adoption of this ordinance was a lot of record; or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of a piece of property, the strict application of the provisions of this ordinance would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance.

(1) In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance.

(2) Before any variance is granted it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood.

(5) Action of the Board of Zoning Appeals. In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order, requirements, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to authorize any variance from the terms of this ordinance. (1992 Code, § 14-212, as amended by Ord. #63-2007, June 2007)

14-213. Amendment. (1) Procedure. The board of mayor and aldermen may amend the regulations, restrictions, boundaries, or any provision of this ordinance. Any member of the town board may introduce such amendment, or any official, board or any other person may present a petition to the board of mayor and aldermen requesting an amendment or amendments to this ordinance.

(a) Application and fee. Citizens wishing to have the ordinance amended shall file an application according to the regulations of the planning commission. To partially defray the administrative cost, the applicant shall pay a filing fee to the Town of Surgoinsville of fifteen dollars (\$15.00).

(b) Notice to property owners. The person requesting the rezoning must submit to the planning commission letters addressed to each property owner and resident within five hundred (500) feet of the property in question containing information adequate to notify such owners and residents of the intention to rezone the area for which the application is submitted and when and where a public hearing will be held before the planning commission. Such letters should be placed in unsealed, stamped and addressed envelopes ready for mailing by the planning commission. The return address of the planning commission must appear on the envelop and list of all persons to whom letters are sent must accompany the applications.

(2) Approval by planning commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval or suggestions to the planning commission. If the planning commission within thirty (30) days disapproves, after such submission, it shall require the

favorable vote of the majority of the entire membership of the town board to become effective. If the planning commission neither approves nor disapproves such proposed amendment within forty-five (45) days after such submission, the action of such amendment by said board shall be deemed favorable.

(3) Introduction of amendment. Upon the introduction of an amendment to this ordinance or upon the receipt of a petition to amend this ordinance, the board of mayor and aldermen shall publish a notice of such request for an amendment, together with the notice of time set for hearing by the board of mayor and aldermen on the requested change. Said notice shall be published in some newspaper of general circulation in the Town of Surgoinsville, Tennessee. Said hearing by the board of mayor and aldermen shall take place not sooner than fifteen (15) days after the date of publication of such notice. (1992 Code, § 14-213, as amended by Ord. #63-2007, June 2007)

14-214. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance on any part thereof, and the whole or part of any existing or future ordinance of the Town of Surgoinsville, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (1992 Code, § 14-214, as amended by Ord. #63-2007, June 2007)

CHAPTER 3**FLOOD DAMAGE PREVENTION ORDINANCE****SECTION**

- 14-301. Statutory authorization.
- 14-302. Findings of fact.
- 14-303. Statement of purpose.
- 14-304. Objectives.
- 14-305. Definitions.
- 14-306. Application.
- 14-307. Basis for establishing the areas of special flood hazard.
- 14-308. Requirement for development permit.
- 14-309. Compliance.
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- 14-311. Interpretation.
- 14-312. Warning and disclaimer of liability.
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- 14-314. Designation of ordinance administrator.
- 14-315. Permit procedures.
- 14-316. Duties and responsibilities of the administrator.
- 14-317. General standards.
- 14-318. Specific standards.
- 14-319. Standards for areas of special flood hazard with established base flood elevations and with floodways designated.
- 14-320. Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated.
- 14-321. Standards for streams without established base flood elevations or floodways (A zones).
- 14-322. Standards for areas of shallow flooding (AO and AH zones).
- 14-323. Standards for areas protected by flood protection system (A-99 zones).
- 14-324. Standards for unmapped streams.
- 14-325. Variance procedures.
- 14-326. Board of zoning appeals.
- 14-327. Conditions for variances.
- 14-328. Conflict with other ordinances.

14-301. Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Surgoinsville, Tennessee Board of Mayor and Aldermen does ordain as follows. (Ord. #53-2006, April 2006)

14-302. Findings of fact. (1) The Surgoinsville Mayor and its legislative body wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-1-04 edition).

(2) Areas of Surgoinsville 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.

(3) These 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, flood-proofed, or otherwise unprotected from flood damages. (Ord. #53-2006, April 2006)

14-303. Statement of purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(1) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(2) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. #53-2006, April 2006)

14-304. Objectives. The objectives of this ordinance are:

(1) To protect human life, health and property;

(2) To minimize expenditure of public funds for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;

(6) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize blight in flood areas;

(7) To insure that potential homebuyers are notified that property is in a floodable area; and

(8) To maintain eligibility for participation in the National Flood Insurance Program. (Ord. #53-2006, April 2006)

14-305. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall not be used for human habitation.

(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 which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "new construction."

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(5) "Area of shallow floodwater" 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 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.)

(6) "Area of special flood -related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary

Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard" is 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.

(8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "Structure").

(12) "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 permanent storage of equipment or materials.

(13) "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 fill, 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.

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(15) "Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the program.

(16) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(17) "Existing construction" means any structure for which the "start of construction" commenced 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 National Flood Insurance Program (NFIP).

(18) "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 National Flood Insurance Program (NFIP).

(19) "Existing structures" see "Existing construction."

(20) "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).

(21) "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.

(22) "Flood elevation determination" means a determination by the administrator 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.

(23) "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.

(24) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(25) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(28) "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.

(29) "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.

(30) "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, structures and their contents.

(31) "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.

(32) "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.

(33) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

(34) "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.

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(36) "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, bridge openings and the hydrological effect of urbanization of the watershed.

(37) "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.

(38) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(39) "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 Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(40) "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.

(41) "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.

(42) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(43) "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," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(44) "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.

(45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(46) "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 purpose of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(49) "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 after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(50) "North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(51) "100-year flood" see "Base flood."

(52) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(53) "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.

(54) "Regulatory floodway" means that 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.

(55) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(56) "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.

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency" 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 the administrator to assist in the implementation of the National Flood Insurance Program for the state.

(59) "Structure" for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(60) "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.

(61) "Substantial improvement." means:

(a) Any repairs, reconstructions, rehabilitations additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

(i) The appraised value of the structure prior to the start of the initial repair or improvement; or

(ii) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

(b) For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(ii) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

(64) "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 ordinance is presumed to be in violation until such time as that documentation is provided.

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains or riverine areas. (Ord. #53-2006, April 2006)

14-306. Application. This ordinance shall apply to all areas within the incorporated area of Surgoinsville, Tennessee. (Ord. #53-2006, April 2006)

14-307. Basis for establishing the areas special flood hazard. The areas of special flood hazard identified on the Surgoinsville, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood

Insurance Rate Map (FIRM), Community Panel Numbers 47073C-0095B, 47073C-0235B, 47073C-0255B, 47073C-0260B, dated July 3, 2006, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance. (Ord. #53-2006, April 2006)

14-308. Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities. (Ord. #53-2006, April 2006)

14-309. Compliance. No land, structure or use shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. (Ord. #53-2006, April 2006)

14-310. Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail. (Ord. #53-2006, April 2006)

14-311. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes. (Ord. #53-2006, April 2006)

14-312. Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Surgoinsville of Hawkins County, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder. (Ord. #53-2006, April 2006)

14-313. Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate

offense. Nothing herein contained shall prevent Surgoinsville of Hawkins County, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #53-2006, April 2006)

14-314. Designation of ordinance administrator. The code enforcement officer is hereby appointed as the administrator to implement the provisions of this ordinance. (Ord. #53-2006, April 2006)

14-315. 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:

(1) Application stage. (a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(b) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(c) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in § 14-315.

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit. 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.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where 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.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

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. (Ord. #53-2006, April 2006)

14-316. Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

(1) Review of all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(2) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(3) Notification to 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 submission of evidence of such notification to the Federal Emergency Management Agency.

(4) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(5) 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 or substantially improved buildings, in accordance with § 14-315.

(6) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-315.

(7) When flood proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-315.

(8) 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) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(9) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall 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 community FIRM meet the requirements of this ordinance.

Within unnumbered 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 or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-305 of this ordinance). All applicable data including elevations of flood proofing certifications shall be recorded as set forth in § 14-315.

(10) All records pertaining to the provisions of this ordinance shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #53-2006, April 2006)

14-317. General standards. In all flood prone areas the following provisions are required:

(1) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(3) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(4) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(5) 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;

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance; and

(10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance shall be undertaken only if said non-conformity is not further extended or replaced. (Ord. #53-2006, April 2006)

14-318. Specific standards. These provisions shall apply to all areas of specific flood hazard as provided herein:

(1) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of this section.

Within unnumbered 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 or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-305 of this ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-315.

(2) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot above the level of the base flood elevation.

Within unnumbered 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 or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-305 of this ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-315.

Buildings located in all A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are

watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A 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 § 14-315.

(3) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.

(i) 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;

(ii) The bottom of all openings shall be no higher than one (1) foot above the finish grade; and

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of this section.

(4) Standards for manufactured homes and recreational vehicles.

(a) All manufactured homes placed, or substantially improved, on:

(i) Individual lots or parcels;

(ii) In expansions to existing manufactured home parks or subdivisions; or

(iii) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

(b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(i) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or

(ii) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet in height above the highest adjacent grade.

(c) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-318(4) of this ordinance.

(d) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(e) All recreational vehicles placed on identified flood hazard sites must either:

(i) Be on the site for fewer than one hundred eighty (180) consecutive days;

(ii) 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.

(iii) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(5) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured

home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area. (Ord. #53-2006, April 2006)

14-319. Standards for areas of special flood hazard with established base flood elevations and with floodways designated.

Located within the areas of special flood hazard established in § 14-307, 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:

(1) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments 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, when combined with all other existing and anticipated development, shall not result in any increase in the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(2) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of §§ 14-317 through 14-324. (Ord. #53-2006, April 2006)

14-320. Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated.

Located within the areas of special flood hazard established in § 14-307, where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

(1) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a 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 (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(2) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevation established in accordance with § 14-318. (Ord. #53-2006, April 2006)

14-321. Standards for streams without established base flood elevations or floodways (A zones). Located within the areas of special flood hazard established in §§ 14-306 through 14-313, where streams exist, but no base flood data has been provided (A zones), or where a floodway has not been delineated, the following provisions shall apply:

(1) When base flood elevation data or floodway data have not been provided in accordance with §§ 14-316 through 14-317 then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of §§ 14-317--14-324 only if data is not available from these sources, then the following provisions (2) and (3) shall apply:

(2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty (20) feet, whichever is greater, measured from the top of the stream bank, unless certification by 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 (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(3) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-318 and "elevated buildings." (Ord. #53-2006, April 2006)

14-322. Standards for areas of shallow flooding (AO and AH zones). Located within the areas of special flood hazard established in § 14-307, are areas designated as shallow flooding areas. These areas have been special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-318, and "elevated buildings."

(2) All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one (1) foot above the specified FIRM flood level, 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, the lowest floor, including basement, shall be flood proofed to at least three (3) feet above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in § 14-315.

(3) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(4) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file. (Ord. #53-2006, April 2006)

14-323. Standards for areas protected by flood protection system (A-99 zones). Located within the areas of special flood hazard established in §§ 14-306 through 14-313 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 zones) all provisions of §§ 14-314--14-317 shall apply. (Ord. #53-2006, April 2006)

14-324. Standards for unmapped streams. Located within Surgoinsville, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(1) In areas adjacent to such unmapped streams, no encroachments including fill material or 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 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 (1) foot at any point within the locality.

(2) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with §§ 14-314 through 14-316. (Ord. #53-2006, April 2006)

14-325. Variance procedures. The provisions of § 14-326 and 14-327 shall apply exclusively to areas of special flood hazard within Surgoinsville, Tennessee. (Ord. #53-2006, April 2006)

14-326. Board of zoning appeals. (1) The Surgoinsville Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(2) Variances may be issued for the repair or rehabilitation of historic structures (see definition) 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 to preserve the historic character and design of the structure.

(3) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(a) The danger that materials may be swept onto other property to the injury of others;

(b) The danger to life and property due to flooding or erosion;

(c) The susceptibility of the proposed facility and its contents to flood damage;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;

(h) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;

(j) 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, and water systems, and streets and bridges.

(4) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this ordinance.

(5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. (Ord. #53-2006, April 2006)

14-327. Conditions for variances. (1) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(2) 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 a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) 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 level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(4) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Ord. #53-2006, April 2006)

14-328. Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of Surgoinsville, Tennessee, the most restrictive shall in all cases apply. (Ord. #53-2006, April 2006)

CHAPTER 4**STORMWATER, EROSION AND SEDIMENTATION CONTROL****SECTION**

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14-401. Title. This chapter shall be known as the "Stormwater, Erosion and Sedimentation Control Ordinance of the Town of Surgoinsville, Tennessee." (Ord. #25-2002, April 2003)

14-402. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Surgoinsville and Hawkins County; and promote the public health and welfare of the people by establishing requirements for the control of stormwater, erosion and sedimentation and by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by the runoff of excessive stormwater and associated pollutants to reduce flooding and to reduce the economic loss to individuals and the community at large. (Ord. #25-2002, April 2003)

14-403. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Development." Any activity on one acre or more or a site that is part of a common development encompassing one or more acres that involves making changes to the land contour by grading, filling, excavating removal, or destruction of topsoil, trees, or vegetative covering.

(2) "Denuded area." Areas disturbed by grading, filling, or other such activity in which all vegetation has been removed and soil is exposed directly to the elements allowing for the possibility of erosion, stormwater and sediment run-off.

(3) "Developer." Any person, owner, 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.

(4) "Drainage." A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied to surface water.

(5) "Drainage ways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, sinkholes, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the Town of Surgoinsville or the area under the regulatory responsibility of the Surgoinsville Planning Commission.

(6) "Erosion." The general process whereby soils are moved by flowing surface or subsurface water.

(7) "Grading permit." The permit that must be issued by the building inspector, or in his/her absence, the town's designee, before any land disturbing activity is undertaken by a developer, or when grading, filling, or excavating is proposed on a project.

(8) "Land disturbing activity." Means any activity which may result in soil erosion from water or wind and the movement of sediments into drainage ways, or local water, including, but not limited to, clearing, grading, excavating, transportation and filling of land, except that the term shall not include:

(a) Such minor land disturbing activities as home and gardens and individual home landscaping, repairs and maintenance work.

(b) Construction, installation or maintenance of individual service connections, or septic lines and drainage fields or utility line construction.

(c) Preparation for single family residences separately built, unless in conjunction with a site that is part of a common development encompassing one or more acres.

(d) Emergency work to protect life, limb or property.

(9) "Stormwater pollution prevention plan." For the purpose of this chapter, a Stormwater Pollution Prevention Plan (SWPPP) refers to a formal written document addressing grading, vegetation, drainage, and stormwater flows, erosion and sedimentation controls, as specified in §§ 14-405 through 14-408, that is reviewed by the building inspector/designee, reviewed by the Surogoinsville Planning Commission, and if approved by the planning commission, is used as the basis for the building inspector to issue a grading permit that allows land disturbing activity to proceed. (Ord. #25-2002, April 2003)

14-404. Regulated land disturbing activities. (1) Except as provided in subsections (2) and (3) of this section, it shall be unlawful for any person to engage in any land disturbing activity on any commercial development, or any development, construction, or renovation activity involving at least one (1) acre without submitting and obtaining approval of a stormwater pollution prevention plan as detailed in §§ 14-406 through 14-409 of this chapter, and being issued a grading permit by the building inspector/designee.

(2) Any person who owns, occupies and operates private agriculture or forest lands shall not be deemed to be in violation of this chapter of land disturbing activities which result from the normal functioning of these lands, however, the building inspector has the authority to require reasonable erosion and sedimentation control measures if pollution and run-off problems are evident.

(3) Any state or federal agency not under the regulatory authority of the Town of Surogoinsville for stormwater management, erosion and sedimentation control. (Ord. #25-2002, April 2003)

14-405. Permit required for any land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit that must be issued by the building inspector prior to the commencement of any work. Grading permits for land disturbing activities will

be issued by the building inspector only upon the developer meeting requirements outlined in §§ 14-404 through 14-412 of this chapter. (Ord. #25-2002, April 2003)

14-406. Stormwater pollution prevention plan required. A Stormwater Pollution Prevention Plan (SWPPP) shall be required for all developments, subdivisions, or construction activities involving one (1) or more acres. A SWPPP shall be required for all commercial construction or renovation, or any multi family residential facility involving three (3) or more units. If necessary to protect the health and safety of the people, the building inspector and/or planning commission may, at its discretion, require a SWPPP for any development or renovation under five (5) acres, or subdivision with less than three (3) adjacent lots, or multi-family residential development under three (3) units. (Ord. #25-2002, April 2003)

14-407. Plan requirements. The SWPPP shall be prepared and designed and certified by an engineer and/or surveyor licensed in the State of Tennessee. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage. The plan shall include at least the following:

(1) Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(2) Contour intervals of five (5) or less showing present conditions and proposed contours resulting from land disturbing activity.

(3) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(4) Existing land cover.

(5) Approximate limits of proposed clearing, grading and filling.

(6) Amount of approximate flows of existing stormwater leaving any portion of the site and where stormwater leaves the site. The appropriate calculations for making this determination shall be shown in the drainage plan.

(7) Description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(8) Location, size and layout of proposed stormwater and sedimentation control improvements.

(9) Proposed drainage network.

(10) Proposed drain tile or waterway sizes.

(11) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The hydraulic calculations necessary to ensure adequately sized stormwater management structures must also be included.

(12) The projected sequence of work represented by the grading, drainage and erosion and sedimentation control plans as related to other major items of construction.

(13) Specific remediation measures to prevent erosion and sedimentation run-off, and to meet approved standards as outlined in § 14-408 of this chapter. Plans shall include detailed drawings for all control measures used; stabilization measures including vegetation and non-vegetative measures, both temporary and permanent, shall be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(14) Specific details for the construction of the entrance to the site for controlling erosion and road access points and for eliminating or keeping mud, sediment, and debris on Surgoinsville streets and public ways at a level acceptable to the building inspector. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the building inspector and/or Surgoinsville Law Enforcement Officer. Failure to remove said sediment, mud or debris shall be deemed a violation of this ordinance.

(15) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site. (Ord. #25-2002, April 2003)

14-408. Plan must contain measures to meet approved standards.

The SWPPP shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

(1) The development fits within the topography and soil conditions in a manner that allows stormwater and erosion and sedimentation control measures to be implemented in a manner satisfactory to the Surgoinsville Planning Commission. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion.

(2) Plans for development and construction shall minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling may be refused a permit by the Surgoinsville Planning Commission if it is determined that the land use permitted by the applicable zoning district could be supported with less alteration of the natural terrain.

(3) During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural water courses, their flood plains; or constructed channels in a manner so as to adversely affect other properties.

(4) Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed more than twenty (20) days prior to grading or earth

moving. No work shall occur until perimeter sedimentation and erosion control devices are in place to the building inspector's satisfaction.

(5) Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and grades should not exceed 2 to 1 slope without use of a retaining wall and must be properly covered with mulch and vegetation. Regardless of the method used, the objective is to leave the site as erosion and maintenance-free as is practical.

(6) Provisions are to be implemented that accommodate any increase in stormwater run-off generated by the development in a manner in which the existing levels of run-off are not increased during and following development and construction. Hydraulic calculations necessary to make accurate determinations will be based at a minimum on a two (2) year storm event. The planning commission may require designs based on larger storm events on a case-by-case basis. A combination of storage and controlled release of stormwater run-off shall be required for all development and construction.

(7) Discharges from sedimentation basins or traps must be through piping, liners, rip-rap or properly grassed channels so that the discharge does not cause erosion.

(8) Sedimentation basins (debris basins, desalting basins, or silt traps) and other drainage and sedimentation control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or silt traps may be temporary, but shall not be removed without the approval of building inspector/designee.

(9) Damage to vegetation or stream banks or waterways (those not regulated in other chapters of this code) shall be minimized within five (5) feet of each bank, except as necessary for the installation of utilities, development of roads, or construction of retention ponds and related drainage improvements.

(10) Land shall be developed to the extent possible in increments of workable size that can be completed in a single construction season. Erosion and sedimentation control measures shall be coordinated with the sequence of grading development and construction operations. Control measures such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any other stage of development.

(11) The permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are achieved. However, without prior approval of an alternate plan by the Sargoinville Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas within seven (7) days from substantial completion of grading and where disturbed areas will remain unfinished for more than thirty (30) calendar days.

(12) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders. Plant varieties shall be those sustainable in a drainage way environment. Woody material, such as trees, shall be kept from encroaching on the dam. Utilities shall not be constructed through the stormwater control device and must be accessible without disturbing the device.

(13) In many situations, retention facilities and drainage structures need to be fenced in order to protect public safety. The Surgoinsville Planning Commission may require fencing for any basin or structure. When the planning commission requires fencing for any basin or structure. When the planning commission requires fencing, the following specifications apply. Alternate fencing plans may be considered when requested by the developer, residents, or if the planning commission feels some other form of fencing is more appropriate for the site.

- (a) A minimum height of six (6) feet;
- (b) Line post must be 1 7/8" diameter, 16 gauge;
- (c) Fence must be chained link of a minimum of 9 gauge, or approved alternative;
- (d) A lockable access gate of a minimum width of 12 feet must be provided to allow access by equipment and machinery as needed for maintenance.

(14) SWPPP plans must meet minimum requirements established in Tennessee Code Annotated as follows:

- (a) Name of applicant;
 - (b) Business or residence address of applicant;
 - (c) Name and address of owners of property involved in activity;
 - (d) Address and legal description of property, and names of adjoining property owners;
 - (e) Name(s) and address(es) of contractor(s), if different from applicant, and any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the drainage and sedimentation control plan;
 - (f) A brief description of the nature, extent, and purpose of the land disturbing activity;
 - (g) Proposed schedule for starting and completing project.
- (Ord. #25-2002, April 2003)

14-409. Plan development at owner's/developer's expense. Unless specifically approved by the board of mayor and aldermen, all SWPPPs shall be developed and presented at the expense of the owner/developer. (Ord. #25-2002, April 2003)

14-410. Plan submitted to building inspector. Six (6) copies of the SWPPP shall be submitted directly to the building inspector at least fifteen (15) days prior to consideration. Any insufficiencies, violations noted or comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Surgoinsville Planning Commission. (Ord. #25-2002, April 2003)

14-411. Final plan reviewed within sixty days. The Surgoinsville Planning Commission shall review SWPPPs as quickly as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. However, under no circumstances shall the planning commission take more than sixty (60) days to approve or disapprove the final submittal. (Ord. #25-2002, April 2003)

14-412. Grading permit and bond. Following approval of the SWPPP by the planning commission, a grading permit shall be obtained from the building inspector. No grading permit shall be issued until a contractor performance bond is posted in the amount determined to be reasonable by the planning commission. The bond may not be higher than an amount equal to the estimated cost of the improvements, and said bond shall only be released by the building inspector following completion of construction and acceptance of the grading, vegetation, drainage, and erosion and sedimentation control measures. The bond shall be made out to the Town of Surgoinsville and if issued in conjunction with a subdivision plan, shall include the cost of paving, landscaping, and utilities including street lights. If it appears that the SWPPP activities approved by the Surgoinsville Regional Planning Commission will not be implemented within a twelve (12) month period, the Surgoinsville Planning Commission at its discretion after the notice of noncompliance has been properly issued as outlined in § 14-416 of this chapter and the developer has failed to comply, may cash said contractor's performance bond to complete all of the improvements approved or any portion of the SWPPP activities it deems necessary to protect the health and safety of residents and to protect the quality of local waters. Upon the posting of the bond, the developer must sign and have notarized and approved a certification granting permission for any SWPPP activities, and any landscaping, paving and utility improvements also approved, to be made on the property in case of default. (Ord. #25-2002, April 2003)

14-413. Building inspector and/or town designee may require additional protective measures. The building inspector and/or the town's designee has the authority at their discretion to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in the ordinance and in the approval issued by the

commission. Additional protective measures required by the building inspector and/or the town designee that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 14-428 of this chapter. (Ord. #25-2002, April 2003)

14-414. Retention/detention facilities and drainage structures maintained. All on-site retention basins and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include improper storage resulting in uncontrolled run-off and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. The building inspector has the responsibility to see that the retention basin is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the retention facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (Ord. #25-2002, April 2003)

14-415. Improperly maintained retention/detention facilities and drainage structures a violation. The building inspector and/or town designee shall periodically monitor and inspect the care, maintenance and operation of retention facilities and drainage structures during and after construction and development. Facilities found to be a nuisance, as defined in the Surgoinsville Municipal Code, are in violation of the ordinance and are subject to fines of fifty dollars (\$50.00) per day with each additional day considered a separate violation. (Ord. #25-2002, April 2003)

14-416. Town may take ownership of retention facilities and drainage structures. The Surgoinsville Board of Mayor and Aldermen shall have the authority to accept or take ownership of retention facilities and drainage structures on behalf of the town provided that the board and planning commission feel the public interest is best served by the town providing on-going responsibility for maintenance for upkeep. In such cases, approval of the transfer of ownership shall only occur after the planning commission and the board of mayor and aldermen have received an inspection report from the building inspector that certifies said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. Transfer of ownership to the town shall occur at or near the completion of the subdivision or development and the developer must provide fee simple title to the property on which the retention/detention basin or drainage structure is located and/or any necessary easements allowing the Town of Surgoinsville access to the facilities for routine maintenance and care. (Ord. #25-2002, April 2003)

14-417. Technical assistance. Through a memorandum of understanding with the Town of Surgoinsville, the Hawkins County Soil Conservation District staff and the Hawkins County extension agent are available for consultation and advice concerning stormwater management and erosion and sedimentation problems to all persons planning to develop land within the town or under the subdivision jurisdiction of the Surgoinsville Planning Commission. Tennessee Local Planning Assistance Office (LPAO) and Tennessee Department of Environment and Conservation (TDEC) staff may also be consulted. The planning commission and building inspector will use these consultants as needed to review SWPPPs prior to approval and provide assistance to the building inspector with inspections. (Ord. #25-2002, April 2003)

14-418. Building inspector and/or designee responsible for providing safeguards in projects less than one acre. Projects undertaken within the corporate limits of Surgoinsville that are not subject to review and approval of the Surgoinsville Planning Commission shall fall under the responsibility of the Surgoinsville Building Inspector and/or the town designee to see that the measures required in this chapter to protect the health and safety of the people and to protect the quality of surface waters are carried out as needed. The building inspector shall require reasonable drainage, erosion and sedimentation control measures as part of the grading permit process outlined in § 14-405. Under no conditions shall the building inspector or town designee allow silt or sedimentation to enter drainage ways or adjoining properties, or allow stormwater flows to adversely impact adjoining properties. Denuded area, cuts and slopes shall be properly covered within the same schedule as directed in § 14-407(14) of this chapter. (Ord. #25-2002, April 2003)

14-419. Grading permit also required for any project on less than one acre involving grading, filling, or excavation. A grading permit is also required for any development or construction activity, except as exempted in § 14-404 and those activities exempted from the definition of land disturbing activity, on property one acre or less. However, said development and construction activities do not require a formal SWPPP unless specifically requested by the planning commission. The building inspector shall require that all grading, vegetation, drainage, stormwater, erosion and sedimentation control measures necessary shall be implemented and shall meet the objectives established in this chapter. Developers must also present to the building inspector a description of the measures that will be taken to address the requirements established in § 14-404(14) and (15) of this chapter--avoiding mud, sediment, rock and debris on public ways and streets. These measures must be addressed prior to the building inspector issuing a grading permit. Measures preventing excess run-off and erosion must be in place prior to the commencement of grading and/or excavation. (Ord. #25-2002, April 2003)

14-420. Existing developed properties with drainage, erosion and sediment concerns. Properties of any size within the corporate limits of the Town of Surgoinville that have been developed or in which land disturbing activities have previously been undertaken, are subject to the following requirements:

- (1) Denuded areas still existing must be with appropriate vegetation and/or mulch.
- (2) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
- (3) Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion.
- (4) Junk, rubbish, etc. shall be cleared of drainage ways to help minimize possible contamination of stormwater run-off.
- (5) Stormwater run-off in commercial areas, office or medical facilities, and multi family residences of three (3) or more units shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include, but not be limited to, the following:
 - (a) Oil skimmer/grit collector structure. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway.
 - (b) Retention basins.
 - (c) Planting and/or sowing of vegetation.
 - (d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (Ord. #25-2002, April 2003)

14-421. Improvements required in existing development normally at owner's expense. Drainage and sediment control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. The board of mayor and aldermen, however, at its discretion in circumstances in which board members feel the town's participation is essential to protecting the health and safety of residents and the water quality of Surgoinville's drainage ways, may approve cost sharing needed drainage and sedimentation control measures. (Ord. #25-2002, April 2003)

14-422. Town may take responsibility for existing retention facilities and drainage structures. The Surgoinville Board of Mayor and Aldermen may, on behalf of the town, take responsibility for existing retention facilities and drainage structures if the Surgoinville Planning Commission or the board of mayor and aldermen itself so determines that the general public is better served when said facilities are under the long term maintenance responsibility of the town. Facilities considered shall be accepted as outlined in § 14-417 of this chapter. The Surgoinville Planning Commission may also

recommend to the board of mayor and aldermen that the town participates in making certain improvements to existing facilities in addition to accepting responsibility for their long term maintenance and care if the commission feels said improvements are in the best interest of the general public. (Ord. #25-2002, April 2003)

14-423. Improvements required with existing developments subject to appeal. Improvements required by the building inspector and/or town designee as outlined in § 14-414 of this chapter are subject to appeal by the property/business owners to the Surgoinville Planning Commission as specified in § 14-428. (Ord. #25-2002, April 2003)

14-424. Monitoring, reports, and inspections. The building inspector and/or town designee, with the possible assistance of the soil conservationist and/or the county extension agent, shall make periodic inspections of the land disturbing activities, the stormwater management system installations, and other activities requiring a grading permit to ensure compliance with the approved plan. Inspections will evaluate whether the measures required in the SWPPP and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit. If the building inspector and/or town designee determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

(1) A notice from the building inspector and/or town designee shall be served on the permit holder either by registered or certified mail, delivered by hand to the permit holder or an agent or employee of the permitted supervising the activities, or by posting the notice at the work site in a visible location, that the permit holder is in noncompliance.

(2) The notice of noncompliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The building inspector and/or town designee shall require a reasonable period of time for the permitted to implement measures bringing the project into compliance; however, if it is determined by the building inspector and/or town designee that health and safety factors or the damage resulting from noncompliance is extremely severe, immediate action may be required.

(3) If the permit holder fails to comply within the time specified, the permit may be subject to revocation. In addition, the permitted shall be deemed to be in violation of the ordinance comprising this chapter and thus shall be subject to the penalties provided in this chapter.

(4) In conjunction with the issuance of a notice of non-compliance or subsequent to the permittee not completing the corrective measures directed in the time period required, the building inspector or town designee may issue an order requiring all or part of the land disturbing activities on the site be stopped. The stop work order may be issued with or as part of the notice of

noncompliance, or may be delivered separately in the same manner as directed in § 14-124(1). (Ord. #25-2002, April 2003)

14-425. Certificate of occupancy not issued until compliance with plan verified. The building inspector will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the drainage and sedimentation control plan have been completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping, and utilities, including street lighting if decorative lights are used, are approved and accepted. (Ord. #25-2002, April 2003)

14-426. Plan construction acceptance and bond release. SWPPP activities must be inspected and accepted by the building inspector and/or the town designee. If within a commercial or subdivision development, streets, sidewalks, curbs and alleys, landscaping, street lighting, water, sewer, and any installation of power, telephone, cable, and gas utilities must be approved and accepted by the appropriate official. All monitoring and regulatory authorities shall complete an approval and acceptance form before the building inspector releases the associated performance bond. The building inspector and/or town designee will sign a release on the approval and acceptance form as soon as all of the project criteria have been satisfied and approved. (Ord. #25-2002, April 2003)

14-427. Appeal of administrative action. Actions taken by the building inspector and/or town designee as authorized in §§ 14-414, 4-419, 14-425, 14-426 and 4-427 are subject to review by the Surgoinsville Planning Commission provided an appeal is filed in writing with the chairman of the planning commission within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects his/her rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. Drainage and sediment mitigation actions required by the building inspector and/or town designee with existing properties or developments are also subject to appeal to the Surgoinsville Planning Commission provided that appeals are made in writing, within thirty (30) days of receiving formal notification to the commission chairman citing the specific reason(s) the activity or activities required present a hardship and cannot be implemented. (Ord. #25-2002, April 2003)

14-428. Town clean-up resulting from violations at developer/owner's expense. Town staff is authorized to take remedial actions to prevent, clean-up, repair or otherwise correct situations in which water, sediment, rock, vegetation, etc. ends up on public streets and/or right-of-ways resulting from violations of this chapter; where necessary drainage,

erosion and sedimentation control measures have not been properly implemented. In such cases, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars (\$100.00) per hour. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filling a lien against the property involved in the action. (Ord. #25-2002, April 2003)

14-429. Penalties enforcement. Any developer or person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by any authorized enforcement officer or the Surgoinsville Planning Commission, shall be guilty of a misdemeanor, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the developer or person shall be subject to fines of up to fifty dollars (\$50.00) for each offense, with each following day constituting a new offense. Unless otherwise specified within a section of this chapter, the building inspector is the designated enforcement officer of the ordinance comprising this chapter. The building inspector/town designee or any Surgoinsville Police Officer may issue citations for violations. (Ord. #25-2002, April 2003)

14-430. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the Town of Surgoinsville, the most restrictive shall in all cases apply.

(2) Severability. If any provision of this ordinance is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any remaining provisions which are not of themselves invalid or unconstitutional. (Ord. #25-2002, April 2003)

CHAPTER 5

MOBILE HOME PARKS

SECTION

- 14-501. Definitions.
- 14-502. Minimum standards.
- 14-503. General plan.
- 14-504. Registration.
- 14-505. Permits.
- 14-506. Enforcement.
- 14-507. Legal status provisions.

14-501. Definitions. (1) "Mobile home." A detached single-family dwelling unit with all of the following characteristics:

(a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

(2) "Mobile home park" shall mean any plot of ground containing a minimum of two acres upon which two or more mobile homes are located or are intended to be located, but does not include sites where unoccupied mobile homes are on display for sale.

(3) "Buffer strip" shall mean a plant material which will provide a screen not less than six (6) feet in height.

(4) "Health officer" shall mean the health officer of the Town of Surgoinsville, Tennessee or his authorized representative.

(5) "Building inspector" shall mean the building inspector of the Town of Surgoinsville, Tennessee or his authorized representative.

(6) "Plumbing inspector" shall mean the plumbing inspector of the Town of Surgoinsville, Tennessee or his authorized representative.

(7) "Electrical inspector" shall mean the electrical inspector of the Town of Surgoinsville, Tennessee or his authorized representative. (1992 Code, § 14-402)

14-502. Minimum standards. (1) The site shall be located on a well drained and flood free site with proper drainage.

(2) The site shall not be exposed to objectionable smoke, noise, odors, insect or rodent harborage or other adverse influences.

(3) The site shall be located with direct access to an open public street.

(4) There shall be buffer strips along side and rear lot lines of the park.

(5) Each mobile home space shall be a minimum of two thousand five hundred (2,500) square feet with a minimum of seventy five (75) feet in depth, and shall abut on a driveway with unobstructed access to open approved public street. Each mobile home shall be set back a minimum of ten (10) feet from property lines and space lines, and there shall be a minimum distance of twenty (20) feet between mobile homes.

(6) Each mobile home space shall provide a two hundred (200) square foot space for an automobile parking space.

(7) No service building shall be located less than twenty (20) feet from any mobile home space. Service buildings shall be of permanent construction, adequately ventilated and lighted and built in conformity to all town codes and ordinances.

(8) The public water supply and sanitary sewer connections shall be provided to each mobile home space. Piping and connections shall be as specified and approved by the plumbing inspector.

(9) Each mobile home park shall provide a common area for playgrounds, and leisure time pursuits totaling a minimum of five hundred (500) square feet for each mobile home space exclusive of roadways, mobile home spaces and parking spaces.

(10) All service buildings shall be convenient to the spaces which they solely serve and shall be maintained in a clean and sanitary condition.

(11) The drives, walks, and parking areas shall be paved with a hard surface material which shall be not less than a double bituminous surface.

(12) Driveways shall be a minimum of twenty (20) feet in width.

(13) Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass, trees, shrubs, and pedestrian walks.

(14) The park shall be adequately lighted. (1992 Code, § 14-403)

14-503. General plan. The owner or lessee of the land parcel proposed for a mobile home park shall submit a plan for development to the Surgoinsville Regional Planning Commission for approval. The plan shall show:

(1) The park plan drawn to scale.

(2) The area and dimensions of the proposed park.

(3) The location and width of all roadways and walkways.

(4) The location and dimensions of any proposed service buildings and structures.

(5) The location of all water and sewer lines.

(6) The location of all equipment and facilities for refuse disposal and other park improvements.

- (7) A plan for drainage of the park.
- (8) A certificate of accuracy signed by the surveyor or engineer that the engineering work is correct.
- (9) Certificates and signatures of the health officer and building, electrical and plumbing inspectors.
- (10) A certificate for planning commission approval.
- (11) Any other information deemed pertinent by the planning commission. (1992 Code, § 14-404)

14-504. Registration. (1) Operators of all mobile home parks situated in the corporate limits of Surgoinsville shall keep a complete and permanent register of the inhabitants of the park, noting the following information:

- (a) Car license number and state.
 - (b) Names, age and sex of occupants of each mobile home.
 - (c) Dates of admission to and departure from the park.
- (2) No space shall be rented for residential use of a mobile home in any such park except for periods of thirty (30) days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the building, housing, plumbing, electrical, fire and health officer of the Town of Surgoinsville, Tennessee. (1992 Code, § 14-405)

14-505. Permits. (1) It shall be unlawful for any person to maintain or operate a mobile home park within the limits of the town, unless such person shall first obtain a permit.

(2) The annual permit fee for each mobile home park shall be two dollars and fifty cents (\$2.50) for each mobile home space situated within a mobile home park, with a minimum fee of twenty five dollars (\$25.00).

(3) The annual renewal of permits for mobile home parks shall be issued by the building inspector. The issuance of annual permits shall be contingent upon inspection and approval of the park by the health officer and building inspector. (1992 Code, § 14-406)

14-506. Enforcement. (1) These regulations shall be enforced by the building inspector.

(2) Any person or persons who shall willfully neglect or refuse to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day of violation shall constitute a separate offense. (1992 Code, § 14-407)

14-507. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Surgoinsville the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional. (1992 Code, § 14-408)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS²

SECTION

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

¹Municipal code reference

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

²State law references

Drag racing: Tennessee Code Annotated, § 55-10-501.

Driving while intoxicated or drugged: Tennessee Code Annotated, § 55-10-401.

Driving while license is suspended or revoked: Tennessee Code Annotated, § 55-7-116.

Failing to stop after a traffic accident: Tennessee Code Annotated, § 55-10-101, et seq.

Possession of five (5) or more grams of methamphetamine while operating a vehicle: Tennessee Code Annotated, §37-17-408(d)(2).

- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-122. Delivery of vehicle to unlicensed driver, etc.
- 15-123. Compliance with financial responsibility law required.
- 15-124. Vehicles with a gross vehicle weight rating greater than 35,000 pounds.
- 15-125. Truck traffic limited.
- 15-126. Adoption of state traffic statutes and regulations.

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. (1992 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. (1992 Code, § 15-102)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1992 Code, § 15-103)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1992 Code, § 15-105)

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

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
- (b) When the right half of a roadway is closed to traffic while under construction or repair.
- (c) Upon a roadway designated and signposted by the town 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. (1992 Code, § 15-106)

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

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1992 Code, § 15-107)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1992 Code, § 15-108)

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

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1992 Code, § 15-109)

15-109. General requirements for traffic control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type

¹Municipal code reference

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

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

and location throughout the town. This section shall not be construed as being mandatory but is merely directive. (1992 Code, § 15-110)

15-110. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal. (1992 Code, § 15-111)

15-111. Presumption with respect to traffic control signs, etc. When a traffic control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper town authority. (1992 Code, § 15-112)

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1992 Code, § 15-113)

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1992 Code, § 15-114)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1992 Code, § 15-115)

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1992 Code, § 15-116)

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1992 Code, § 15-117)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1992 Code, § 15-118)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1992 Code, § 15-119)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1992 Code, § 15-120)

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

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and

unobstructed to enable him to make the movement in safety. (1992 Code, § 15-121)

15-121. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc).

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, 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 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) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a

windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section. (1992 Code, § 15-122)

15-122. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(b) "Adult" shall mean any person eighteen years of age or older.

(c) "Custody" means the control of the actual, physical care of the 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) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(e) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a 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 Town of Surgoinsville 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 town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town. (1992 Code, § 15-123)

15-123. Compliance with financial responsibility law required.

Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law:

(1) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision of title 15 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.

(2) 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) On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (Ord. #13-2002, March 2002)

15-124. Vehicles with a gross vehicle weight rating greater than 35,000 pounds. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

"Gross vehicle weight rating." (GVWR) is the maximum (GVW) gross vehicle weight specified by the manufacturer for a single vehicle including the load.

(2) No vehicle with a gross vehicle weight rating in excess of thirty-five thousand (35,000) pounds shall travel on any street, avenue, alley, or public way except Phipps Bend Road, Highway 346 and Highway 11W within the municipal corporate limits of the Town of Surgoinsville except for the sole purpose of making deliveries and loading or unloading.

(3) The provisions of this section shall not be deemed to prohibit travel of such vehicles upon any street, avenue, alley, or public way in the Town of Surgoinsville for the actual loading or unloading of goods, wares, or merchandise provided, however, that "loading" and "unloading" as used in this section shall be limited to the actual time consumed in such operation.

(4) All governmental vehicles, recreational vehicles, and church buses shall be exempt from this section. (Ord. #32-2003, Aug. 2003)

15-125. Truck traffic limited. (1) "No thru trucks" signs shall be installed and enforced on Surgoinsville city streets of Creek Road and South Zion Hill for the safety of citizens and economic advantage of avoiding irreparable damage to the streets of the Town of Surgoinsville.

(2) Any person violating the provision of this section shall be guilty of an offense and upon conviction shall pay a penalty of up to fifty dollars (\$50.00) for each offense. Each occurrence shall constitute a separate offense. (Ord. #47-2005, Oct. 2005)

15-126. Adoption of state traffic statues and regulations. All violations of state regulations for the operation of vehicles committed within the corporate limits of the municipality and which are defined by state law are hereby designated and declared to be offenses against the Town of Surgoinsville also. This provision shall not apply to any offenses in which the state courts have exclusive jurisdiction. (Ord. #48-2005, Dec. 2005)

CHAPTER 2**EMERGENCY VEHICLES****SECTION**

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1992 Code, § 15-201)

15-202. Operation of authorized emergency vehicles.¹ (1) 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 (500) feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(2) 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.

(3) 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.

(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. (1992 Code, § 15-202)

¹Municipal code reference

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

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1992 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 policeman. (1992 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1992 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. (1992 Code, § 15-302)

15-303. In school zones. Pursuant to Tennessee Code Annotated, § 55-8-152, the town 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 mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school, or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1992 Code, § 15-303)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-401. 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 (1992 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. (1992 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 center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1992 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1992 Code, § 15-404)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5**STOPPING AND YIELDING****SECTION**

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

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1992 Code, § 15-501)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1992 Code, § 15-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (1992 Code, § 15-503)

¹Municipal code reference

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

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. ((1992 Code, § 15-504)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1992 Code, § 15-505)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1992 Code, § 15-506)

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

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

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

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn 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 town at intersections which the town decides require no right turns on red in the interest of traffic safety.

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

(4) Steady red with green arrow:

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

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

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1992 Code, § 15-507)

15-508. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town 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. (1992 Code, § 15-508)

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the town, 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. (1992 Code, § 15-509)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1992 Code, § 15-510)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Presumption with respect to illegal parking.
- 15-613. Vehicles with a gross vehicle weight rating greater than 35,000 pounds.

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

Except as hereinafter provided, every vehicle parked upon a street within this town shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1992 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1992 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 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. (1992 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 town, 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). (1992 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 town as a loading and unloading zone. (1992 Code, § 15-605)

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the town, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be regulated by parking meters

where the same have been installed by the town. The presumption shall be that all installed parking meters were lawfully installed by the town. (1992 Code, § 15-606)

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (1992 Code, § 15-607)

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

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (1992 Code, § 15-608)

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters. (1992 Code, § 15-609)

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1992 Code, § 15-610)

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1992 Code, § 15-611)

15-612. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1992 Code, § 15-612)

15-613. Vehicles with a gross vehicle weight rating greater than 35,000 pounds. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

"Gross vehicle weight rating." (GVWR) is the maximum (GVM) gross vehicle weight specified by the manufacturer for a single vehicle, including the load.

(2) No vehicle with a gross vehicle weight rating in excess of thirty five thousand (35,000) pounds shall park on or within five (5) feet of any street, avenue, alley, or public way including Highway 346 but exempting Highway 11W inside the corporate municipal town limits of the Town of Surgoinsville except for the sole purpose of making deliveries and loading or un-loading.

(3) The provisions of this section shall not be deemed to prohibit parking of such vehicles upon any street, avenue, alley, or public way in the Town of Surgoinsville for the actual loading or unloading of goods, wares, or merchandise provided, however, that "loading" and "unloading" as used in this section shall be limited to the actual time consumed in such operation. (Ord. #32-2003, Aug. 2003)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver license in lieu of bail.

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 town court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1992 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1992 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation.

¹Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 1.

State law reference

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

If the offense is a parking meter parking violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the recorder a fine of one dollar (\$1.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, but before a warrant for his arrest is issued, his fine shall be three dollars (\$3.00). For other parking violations the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00) within thirty (30) days and five dollars (\$5.00) thereafter, except for the violation of parking in a handicapped parking space under § 15-604 (13) of this code, for which the offender may be punished according to the general penalty provisions of this code of ordinances. (1992 Code, § 15-703)

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, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of. (1992 Code, § 15-704)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1992 Code, § 15-705)

15-706. Deposit of driver license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. The officer, or the court demanding bail, who receives any persons chauffeur's or operator's license as herein provided, shall issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety.

(3) Failure to appear--disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town 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, § 55-50-801, et seq. (1992 Code, § 15-706)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.
3. REQUIREMENTS FOR PUBLIC STREETS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1992 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 (14) feet or over any sidewalk at a height of less than eight (8) feet. (1992 Code, § 16-102)

¹Municipal 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. (1992 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.¹ (1992 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 mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1992 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 law. (1992 Code, § 16-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1992 Code, § 16-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1992 Code, § 16-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1992 Code, § 16-109)

¹Municipal code reference
Building code: title 12, chapter 1.

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the town recorder. (1992 Code, § 16-110)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law; nor shall he make such crossing at a speed in excess of twenty-five (25) miles per hour. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1992 Code, § 16-111)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as 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. (1992 Code, § 16-112)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1992 Code, § 16-113)

CHAPTER 2

EXCAVATIONS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town recorder is open for business, and the permit shall be retroactive to the date when the work was begun. (1992 Code, § 16-201)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1992 Code, § 16-202)

16-203. Fee. The fee for such permits shall be twenty dollars (\$20.00). (1992 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or five thousand dollars (\$5,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1992 Code, § 16-204)

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1992 Code, § 16-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this town shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the town but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If

within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1992 Code, § 16-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1992 Code, § 16-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1992 Code, § 16-208)

16-209. Supervision. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1992 Code, § 16-209)

CHAPTER 3

REQUIREMENTS FOR PUBLIC STREETS

SECTION

- 16-301. Minimum construction standards must be met.
- 16-302. Regional Planning Commission shall study plat.
- 16-303. Permits for street entrances.
- 16-304. Penalty for violation.

16-301. Minimum construction standards must be met. The Board of Mayor and Aldermen of Surgoinsville, Tennessee shall not accept as a public street any recorded right-of-way until it has met the minimum construction standards of the Subdivision Regulations of the Town of Surgoinsville, Tennessee. (1992 Code, § 16-301)

16-302. Regional Planning Commission shall study plat. Prior to final acceptance of a proposed street as a public street, the Surgoinsville Regional Planning Commission shall study a plat of the proposed street and make its approval or disapproval known to the board of mayor and aldermen. (1992 Code, § 16-302)

16-303. Permits for street entrances. A representative of the Surgoinsville Street Department shall meet with the person or persons making the request at the site and shall require, before a permit is issued, that the following conditions are met:

- (1) All drives be located at right angle with the town street.
- (2) Suitable tile adequately sized shall be installed in a manner that will not impair or alter existing drainage. The tile shall be a minimum of twenty (20) feet in length.
- (3) Driveways shall be located with as long a site distance as possible. Where possible the drive shall not be located on a curve or hill.
- (4) Driveways shall not be located near street intersections.
- (5) The driveway width shall be adequate to provide sufficient turning radius and the driveway shall be as near level as possible at the road entrance to provide easy and safe ingress and egress and to provide good visibility.
- (6) Properties with fifty (50) feet or less of public road frontage are permitted only one (1) drive entrance. Properties with more than fifty (50) feet frontage are allowed only two (2) entrances.
- (7) Some exceptions may be made to these requirements at the discretion of the Surgoinsville Street Department provided that the topography or the situation warrants a variance.

(8) It shall be unlawful for any grading contractor to initiate construction of a driveway entrance until a permit is obtained by the property owner or contractor as required in this section.

(9) The Surgoinville Street Department may require a bond to cover damages to the town streets from construction of driveways or installation of utilities along or across the town street. The amount of such bond shall be determined by the Surgoinville Street Department. (Ord. #1-2001, Jan. 2001)

16-304. Penalty for violation. Any person, firm, or corporation violating the provisions of this chapter, upon conviction thereof, shall be subject to a fine of up to fifty dollars (\$50.00). Each day of violation shall constitute a separate offense. (1992 Code, § 16-303, modified)

TITLE 17**REFUSE AND TRASH DISPOSAL****CHAPTER****1. REFUSE.****CHAPTER 1****REFUSE****SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection for residents only.
- 17-108. Collection vehicles.
- 17-109. Disposal.
- 17-110. Refuse collection fees.

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. (1992 Code, § 17-101)

17-102. Premises to be kept clean. All persons within the town 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. (1992 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this town where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town 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. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1992 Code, § 17-103)

17-104. Location of containers. Where alleys are used by the town refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the town 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 town 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. (1992 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. (1992 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 streets superintendent. Collections shall be made regularly in accordance with an announced schedule. (1992 Code, § 17-106)

17-107. Collection for residents only. (1) Refuse collection is intended for persons whose primary residence is in the Town of Surgoinville only. Likewise, businesses must be located within the town limits to be eligible for refuse collection. It shall be unlawful for a resident to allow a nonresident to deposit refuse on his property for collection by the town.

(2) Violations of this section shall be punishable according to the general penalty provision of this municipal code of ordinances. In addition, the town may withhold refuse collection from residents who allow nonresidents to deposit refuse on their property for collection by the town. (1992 Code, § 17-107)

17-108. 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. (1992 Code, § 17-108)

17-109. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1992 Code, § 17-109)

17-110. Refuse collection fees. Refuse collection fees shall be at such rates as are from time to time set by the board of mayor and aldermen by ordinance or resolution.¹ (1992 Code, § 17-110)

¹Administrative ordinances and resolutions are of record in the office of the recorder.

TITLE 18

WATER AND SEWERS

CHAPTER

1. UTILITY DISTRICTS.

CHAPTER 1

UTILITY DISTRICTS¹

SECTION

18-101. Minimum diameter of water mains.

18-102. Maximum distance between fire hydrants.

18-101. Minimum diameter of water mains. It shall be unlawful for any water main to be laid within the corporate limits by any public utility, utility district, or waterworks company which is less than six (6) inches in diameter by inside measurements. (1992 Code, § 19-301)

18-102. Maximum distance between fire hydrants. It shall be unlawful for any public utility, utility district, or waterworks company to install or erect fire hydrants in the business districts of the municipality so that the distance from one fire hydrant to the next nearest fire hydrant exceeds five hundred (500) feet and in the residential districts of the municipality so that the distance from one fire hydrant exceeds one thousand (1,000) feet. (1992 Code, § 19-302)

¹Municipal code references

Building and utility codes: title 12

Cross connections: title 16.

Gas is furnished to the municipality and its inhabitants by the Hawkins County Gas Utility District of Hawkins County, Tennessee pursuant to a franchise granted by the municipality, dated November 7, 1960, a copy of which is of record in the recorder's office.

South Central Bell is authorized to use the public streets of the municipality for the purpose of erecting, constructing, maintaining, and operating telephone and telegraph lines pursuant to an ordinance dated May 6, 1963 and letter of acceptance dated June 27, 1963, which are of record in the recorder's office.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished by Holston Electric Cooperative.

19-101. To be furnished by Holston Electric Cooperative.

Electricity shall be provided to the Town of Surgoinsville and its inhabitants by the Holston Electric Cooperative. The rights, powers, duties, and obligations of the Town of Surgoinsville and its inhabitants, are stated in the agreements between the parties.¹ (1992 Code, § 19-101)

¹The agreements are of record in the office of the recorder.

CHAPTER 2

GAS

SECTION

19-201. To be furnished by Hawkins County Gas Utility.

19-201. To be furnished by Hawkins County Gas Utility. Gas shall be provided to the Town of Surgoinsville and its inhabitants by the Hawkins County Gas Utility. The rights, powers, duties, and obligations of the Town of Surgoinsville and its inhabitants, are stated in the agreements between the parties.¹ (1992 Code, § 19-201)

¹The agreements are of record in the office of the recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. FAIR HOUSING.
2. TOWN SEAL.

CHAPTER 1

FAIR HOUSING

SECTION

- 20-101. Policy.
- 20-102. Definitions.
- 20-103. Unlawful practice.
- 20-104. Discrimination in the sale or rental of housing.
- 20-105. Discrimination in the financing of housing.
- 20-106. Discrimination in the provision of brokerage services.
- 20-107. Exemption.
- 20-108. Administration.
- 20-109. Education and conciliation.
- 20-110. Enforcement.
- 20-111. Investigations; subpoenas; giving of evidence.
- 20-112. Enforcement by private persons.

20-101. Policy. It is the policy of the Town of Surgoinsville to provide, within constitutional limitations, for fair housing throughout the Community. (1992 Code, § 20-101)

20-102. Definitions. (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale of lease for the construction or location thereon of any such building, structure, or portion thereof.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and judiciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(5) "Discriminatory housing practice" means an act that is unlawful under §§ 20-104, 20-105 or 20-106. (1992 Code, § 20-102)

20-103. Unlawful practice. Subject to the provisions of § 20-107(2), the prohibitions against discrimination in the sale or rental of housing set forth in § 20-104 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in § 20-104 shall apply to:

(a) Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at one time. Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented:

(i) Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(ii) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-104(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or

(b) He has, within preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more

transactions involving the sale or rental of any dwelling or any interest therein; or

(c) He is the owner of any dwelling or intended for occupancy by, or occupied by, five (5) or more families. (1992 Code, § 20-103)

20-104. Discrimination in the sale or rental of housing. As made applicable by § 20-103 and except as exempted by §§ 20-103(2) and 20-107 it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or disability.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status, or disability.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, or disability, or an intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status, or disability.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (1992 Code, § 20-104)

20-105. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or

other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or disability of such person or of any person associated with him in the connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-103(2). (1992 Code, § 20-105)

20-106. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or disability. (1992 Code, § 20-106)

20-107. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status or disability. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its member. (1992 Code, § 20-107)

20-108. Administration. (1) The authority and responsibility for administering this act shall be in the mayor of the Town of Surgoinsville.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner

affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (1992 Code, § 20-108)

20-109. Education and conciliation. Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory activities as will further the purposes of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. (1992 Code, § 20-109)

20-110. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (3), the mayor shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the mayor decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the mayor, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty days after a complaint is filed with the mayor, the mayor has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor will assist in this filing.

(4) If the mayor has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

(6) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance. (1992 Code, § 20-110)

20-111. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation, the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court of the district in which the investigation is taking place. The mayor may administer oaths.

(2) Upon written application to the mayor, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor to the same extent and subject to the same limitations as subpoenas issued by the mayor himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the mayor shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five days after services of a subpoena upon any person, such person may petition the mayor to revoke or modify the subpoena. The mayor shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation,

that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoenas or lawful order of the mayor shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the mayor pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both.

(7) The Town of Surgoinsville attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. (1992 Code, § 20-111)

20-112. Enforcement by private persons. (1) The rights granted by §§ 20-103, 20-104, 20-105 and 20-106 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or § 20-110(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion, sex, national origin, familial status or disability, in any of the activities, services, organizations or facilities; or

(b) Affording another person or class of persons opportunity or protection so to participate, or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, national origin, familial status or disability, in any of the activities, services, organizations or facilities or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than one thousand dollars (\$1,000), or imprisoned not more than one year, or both; and, if bodily injury results, shall be fined not more than ten

thousand dollars (\$10,000), or imprisoned not more than ten (10) years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (1992 Code, § 20-112)

CHAPTER 2**TOWN SEAL****SECTION**

20-201. Official town seal.

20-201. Official town seal. An official seal is hereby adopted and is described as follows:

The seal of the Town of Surgoinsville shall have on its outside a circle outline within which are the words, "Town of Surgoinsville," preceded and followed by a drawing of a single leaf of tobacco. Between the two (2) leaves and to appear at the physical bottom of the seal is the number 1815 signifying the date the town was created by the Tennessee Legislature. Within the proceeding is a circle formed by a rope of cloud symbols. Inside of this is a circle divided into four (4) quadrants. Within the four (4) quadrants are drawings showing the Tennessee flag flying from a flagpole; an airplane shown landing on an airport with the number twenty-five (25) marked on the runway surface; a scene showing a river being crossed by a ferry boat with a steam engine in the background; and a view of an old blacksmith shop with the blacksmith and his anvil in front of it. (Ord. #6-2001, Aug. 2001)

Appendix A

1. Campaign finance.

All candidates for the chief administrative office (mayor), any candidates who spend more than \$500, and candidates for other offices that pay at least \$100 a month are required to file campaign financial disclosure reports. Civil penalties of \$25 per day are authorized for late filings. Penalties up to the greater of \$10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101–118).

Contributions to political campaigns for municipal candidates are limited to:

- a. \$1,000 from any person (including corporations and other organizations);
- b. \$5,000 from a multicandidate political campaign committee;
- c. \$20,000 from the candidate;
- d. \$20,000 from a political party; and
- e. \$75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of \$10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301–310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. Conflicts of Interest.

Municipal officers and employees are permitted to have an "indirect interest" in contracts with their municipality if the officers or employees publicly acknowledge their interest. An indirect interest is any interest that is not "direct," except it includes a direct interest if the officer is the only supplier of

goods or services in a municipality. A “direct interest” is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107–108, T.C.A. § 12-4-101–102).

3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 *et seq.* Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over \$10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from “knowingly” receiving any form of compensation for “consulting services” other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

“Consulting services” under T.C.A. § 2-10-122 means “services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official.” “Consulting services” also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. “Consulting services” does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

"Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct, official oppression, misuse of official information.

a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall

engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude” (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal “duty” to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that “there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county.” However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney’s duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101–102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

ORDINANCE NO. 69-2008

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF SURGOINSVILLE.

WHEREAS some of the ordinances of the Town of Surgoinsville are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Surgoinsville, Tennessee, has caused its ordinances of a general continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Surgoinsville Municipal Code" now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF SURGOINSVILLE, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Surgoinsville Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any 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 town; any ordinance establishing a social security system or providing coverage under the system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or

way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefore; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map' nor shall such repeal affect any ordinance annexing territory to the town.

Section 4. Continuation of existing provisions. Insofar as the provision 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 or not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provision of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as

¹ State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflict provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.



Johnny M. Greer, Mayor

ATTEST:



Sherry Minor, Town Recorder

Passed 1st reading: January 14, 2008

Passed 2nd reading: April 14, 2008

Public Hearing Held: April 14, 2008

Published on: June 11, 2008

Motion by: Alderman Jarnagin Second by: Alderman Bass

FIRST READING – ORDINANCE 69-2008

NAME	AYES	NAYS	ABSTAIN
MAYOR GREER	X		
ALDERMAN BASS	X		
ALDERMAN GRAHAM	X		
VICE-MAYOR HOSS	X		
ALDERMAN JARNAGIN	X		
ALDERMAN SANDIDGE	X		
ALDERMAN THURMAN	X		

Motion by: Alderman Jarnagin Second by: Alderman Bass

SECOND READING – ORDINANCE 69-2008

NAME	AYES	NAYS	ABSTAIN
MAYOR GREER	X		
ALDERMAN BASS	X		
ALDERMAN GRAHAM	X		
VICE-MAYOR HOSS	X		
ALDERMAN JARNAGIN	X		
ALDERMAN SANDIDGE	X		
ALDERMAN THURMAN	X		