Pikeville, Tennessee
MUNICIPAL CODE

Adopted April 2000

THE

PIKEVILLE

MUNICIPAL

CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

April 2000

Change 3
June 29, 2018

TOWN OF PIKEVILLE, TENNESSEE

MAYOR

Philip Cagle

ALDERMEN

Senia Anderson

Jane Humble

Reed Sells

Dale Wheeler

TOWN RECORDER

Debra Barnett

PREFACE

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

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

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

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

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

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

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

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

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

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

Steve Lobertini
Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN CHARTER[1]

[1]The Pikeville charter contains no provisions on ordinance adoption procedures. However, § 10 of the charter gives the mayor the power to veto ordinances, which veto the board (exclusive of the mayor) may override by a majority vote.

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN[2]

SECTION

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

Municipal code references
Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14.

[2]Charter references
Administration of elections: § 3.
Compensation: § 20.
Elections: § 2.
Meetings: § 5.
Number of members on the board: § 2.
Powers: § 7, § 8, and § 19.
Taxation: § 17.
Term of office: § 2.
Vacancies in office: § 4.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M. on the second Tuesday of each month at the town hall. (1988 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.
(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. (1988 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, 1990 (9th) Edition, 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. (1988 Code, § 1-103, modified)

CHAPTER 2

MAYOR[1]

SECTION

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1988 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1988 Code, § 1-202)

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[1]Charter references
Duty and powers: § 10.
Presiding officer of board: § 6.
Salary: § 2.

CHAPTER 3

RECORDER[1]

SECTION

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. (1988 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. (1988 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. (1988 Code, § 1-303)

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[1]Charter references
Appointment: § 9.
Compensation: § 20.
Duty and powers: § 12.

CHAPTER 4

CODE OF ETHICS[1]

SECTION

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

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

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

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

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

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

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

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

1-401. Applicability. This chapter is the code of ethics for personnel of the City of Pikeville. 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 City of Pikeville. The words "City of Pikeville" include these separate entities. (as added by Ord. #5-14-O07, June 2007)

1-402. Definition of "personal interest." (1) For purposes of §§ 4-103 and 4-104, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #5-14-O07, June 2007)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself[1] from voting on the measure. (as added by Ord. #5-14-O07, June 2007)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the

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

official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #5-14-O07, June 2007)

1-405. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the City of Pikeville:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #5-14-O07, June 2007)

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #5-14-O07, June 2007)

1-407. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies fur private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the City of Pikeville. (as added by Ord. #5-14-O07, June 2007)

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the City of Pikeville.

(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 City of Pikeville. (as added by Ord. #5-14-O07, June 2007)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the City of Pikeville's charter or any ordinance or policy. (as added by Ord. #5-14-O07, June 2007)

1-410. Ethics complaints. (1) The city attorney is designated as the ethics officer of the City of Pikeville. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #5-14-O07, June 2007)

1-411. 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 City of Pikeville's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #5-14-O07, June 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

CHAPTER 1

PARK ADVISORY BOARD

SECTION

2-101. Establishment; membership, terms, etc. There is hereby established a Park Advisory Board for the City of Pikeville, Tennessee, which shall consist of seven (7) persons to be appointed by the mayor to serve for terms of three (3) years or until their successors are appointed, except that the members of the board first appointed shall be appointed for such terms that the term of one (1) member shall expire annually. The members of said board shall serve without pay. Vacancies in said board occurring otherwise than by expiration of term shall be filled by the mayor. The board shall have all those powers and duties set forth in Tennessee Code Annotated, § 11-24-101. The park advisory board shall not be responsible for the supervision of staff, the hiring or dismissal of staff, the expenditure of public funds, or enforcement of rules and regulations governing parks and recreation facilities or programs. However, the park advisory board may make recommendations to the board of mayor and alderman on any matter pertaining to the improvement, growth, operation, and expansion of the parks and recreation programs operated by the City of Pikeville. (Ord. #5B-12-092, May 1992, as replaced by Ord. #4-27-015, May 2015 ***Ch3_6-29-18***)

2-102.--2-103. Deleted. (Ord. #5B-12-092, May 1992, as deleted by Ord. #4-27-015, May 2015 ***Ch3_6-29-18***)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

TOWN JUDGE

SECTION

3-101. Town judge. (1) Pursuant to Tennessee Code Annotated, § 16-18-101 et seq., the board of mayor and aldermen of the Town of Pikeville, shall appoint the town judge in accordance with this chapter.

(a) The town judge shall be vested with the judicial powers and functions of the recorder and shall be subject to the provisions of law and the town's charter governing the town's court presided over by the recorder.

(b) The town judge for the Town of Pikeville shall be thirty (30) years of age, licensed in the State of Tennessee to practice law, and shall be a resident of Bledsoe County, Tennessee. In the event he removes his residency from Bledsoe County, Tennessee, he shall automatically vacate his or her office.

(c) The town judge shall be appointed by, and serve at the will and pleasure of the board of mayor and aldermen.

(d) Vacancies in the office of town judge shall be filled by the board of mayor and aldermen.

(e) The town judge shall, before entering upon the duties of this office, take an oath or affirmation, before anyone in Tennessee authorized to issue oaths as follows:

> I, A.B., solemnly swear that I will support the Constitution of the United

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[1]Charter references
Municipal court: § 13.

States and of the State of Tennessee, and the ordinances of the Town of Pikeville, and that I will administer justice without respect to persons, and do equal rights to the poor and to the rich, and that I will faithfully and impartially discharge all the duties incumbent upon me as a town judge to the best of my ability.

(f) The compensation of the town judge shall be $400.00 per month.

(g) Before assuming his duties, the town judge shall execute a bond with a surety company acceptable to the board of mayor and aldermen in the amount of _____ ($), conditioned upon his or her faithful account of all funds coming into his or her hands as town judge. The bond shall be paid for by the town.

(h) During the absence or disability of the town judge, the board of mayor and aldermen may appoint a town judge pro tem to serve until the town judge returns to his duties. The judge pro tem shall have all the qualifications required of the town judge under this chapter, and shall have all authority and powers of the town judge.

(2) The town judge is an appointed judge and shall have jurisdiction only over violations of municipal ordinances.[1] (Ord. #10B-14-096, Nov. 1996, modified)

3-102. Municipal court schedule of offenses, fines and costs. The schedule of fines and costs, and any amendments thereto, may be found in the recorder's office. (as added by Ord. #1-8-018, March 2018 ***Ch3_6-29-18***)

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[1]State law reference

Town of South Carthage v. Barrett, 840 S.W.2d 895 (Tenn. 1992).

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket. The town judge shall keep a complete docket of all matters coming before him in his judicial capatown. 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. (1988 Code, § 1-502)

3-202. 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 sessions[1] for similar work in state cases. (1988 Code, § 1-507)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the 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 non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1988 Code, § 1-510)

3-204. 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. (1988 Code, § 1-511)

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

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. 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. (1988 Code, § 1-503)

3-302. 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. (1988 Code, § 1-504)

3-303. 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. (1988 Code, § 1-505)

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[1]State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized. When the town judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the town judge or, in the absence of the judge, with the 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. (1988 Code, § 1-506)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days next after such judgment is rendered appeal to the next term of the circuit court upon posting a proper appeal bond.[1] (1988 Code, § 1-508)

3-403. 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 and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1988 Code, § 1-509)

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

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

CHAPTER 1

SOCIAL SECURITY

SECTION

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. (1988 Code, § 1-601)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1988 Code, § 1-602)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations,

and shall be paid over to the state or federal agency designated by said laws or regulations. (1988 Code, § 1-603)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1988 Code, § 1-604)

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

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

CHAPTER 2

EMPLOYEE BENEFITS

SECTION

4-201. Applicability. Holiday, vacation and other leave benefits are extended to all full-time town officers and employees. (1988 Code, § 1-701)

4-202. Holidays. Each full-time employee shall be entitled to pay for each of the following holidays: New Years (two days), Good Friday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving (two days), and Christmas (two days), provided the holiday falls on a normal work day. Holidays falling on Sunday will be observed on Monday. Employees will not be given time off on election day, due to the fact, that the polls are open sufficient hours to allow voting after working hours.

Employees who are required to work on any of the above holidays will be compensated at the regularly hourly rate in addition to holiday pay. To be eligible for holiday pay, an employee must be on duty his/her last scheduled whole working day before and his next scheduled whole working day after the holiday. Authorized absence with pay shall be considered as being on duty.

Policemen shall receive an additional eight (8) hours pay for each of the above holidays on duty or not. (1988 Code, § 1-702)

4-203. Annual vacation. Annual vacation is granted for the purpose of allowing an employee to leave his duties for rest and relaxation in order that he may serve the town more efficiently throughout the balance of the year.

All full-time employees of the town shall be granted annual vacation leave with normal pay, subject to the following conditions:

(1) An employee with one full year of service prior to January 1, will be allowed an annual vacation of ten (10) working days per year.

(2) An employee with ten (10) years or more service will be allowed an annual vacation of fifteen (15) working days per year.

(3) An employee with twenty (20) years or more of service will be allowed an annual vacation of twenty (20) working days per year.

(4) An employee with less than one (1) year of service will be eligible to take off five (5) working days without pay, with prior approval.

(5) The annual vacation earned during one calendar year shall be taken during the next calendar year.

(6) It shall be the policy of the town to schedule vacation periods so that operations may continue without having to hire additional help.

(7) Vacation should be requested in writing at least thirty (30) days in advance. The town will begin accepting requests on January 1 of each year.

(8) Vacation requests will be decided on the basis of seniority.

(9) Vacation may be taken on a daily basis with prior approval.

(10) Employees may not take more than two (2) weeks vacation during the months of May, June, July, August, or September without board approval.

(11) If any employee leaves the service of the town, he/she shall be paid for accumulated annual vacation. In the event of death, his/her dependents shall be paid the dollar amount of accumulated vacation.

(12) The town may, at its option, request any employee to accept vacation pay in lieu of time off. (1988 Code, § 1-703)

4-204. <u>Sick leave</u>. Sick leave shall be allowed only as provided in this section.

(1) No employee shall be eligible for sick leave during his/her probationary period of employment.

(2) A full-time employee may be allowed sick leave at the rate of one (1) day for each month of employment.

(3) Sick leave benefits may be allowed to accrue to a maximum of ninety (90) working days.

(4) In cases of prolonged illness and after all sick leave benefits have been exhausted, an employee will be permitted to use his/her annual vacation benefits to supplement sick leave benefits. If no sick leave or annual vacation benefits are available, the employee shall not be permitted to use anticipated sick or annual vacation credits.

(5) No compensation will be allowed for unused sick leave upon retirement, resignation, or discharge.

(6) A certificate from a reputable physician, or the health department, may be required as evidence of illness before compensation is allowed for the period in question.

(7) Sick leave shall be considered for all purposes as continuous employment.

(8) To be eligible for sick leave, an employee shall communicate with his/her department head, prior to or immediately after the time for beginning work. Failure to do so, may be the cause for denial of sick leave with pay.

(9) Sick leave pay must be requested in writing, immediately upon return to work. (1988 Code, § 1-704)

4-205. Injury leave. A full-time employee occupying a permanent position with the town who is unable to work because of injuries sustained in the performance of his/her job, shall receive compensation during the period of such disability in accordance with the following provisions:

(1) During the first seven (7) calendar days of the disability the town shall pay the employee his basic weekly wage.

(2) After the first seven (7) days, the employee may elect to use his sick leave and/or annual vacation benefits to supplement the difference between his basic weekly wage and the benefits paid by the workman's compensation insurance carrier.

(3) Part-time and temporary employees will receive workman's compensation insurance benefits only.

(4) To become eligible for injury leave with pay, an employee must report his/her injury to his/her supervisor immediately and make himself available for first aid treatments.

(5) No employee of the town shall be eligible for injury leave benefits if absent from duty because of injuries sustained while not actually on duty. Such absences shall be considered as sick leave and will be governed by the rules pertaining to sick leave. (1988 Code, § 1-705)

4-206. Emergency leave. In the case of death or serious illness in his/her immediate family, an employee may be granted sick leave for a period not to exceed five (5) days. If additional time is required, it will be deducted from the employee's annual vacation credits, or if no vacation credits are available, the additional time will be considered as leave without pay. (1988 Code, § 1-706)

4-207. Maternity leave. Maternity leave will be granted to an employee who requests it if the employee has satisfactorily completed her probationary period of employment. The board of mayor and aldermen may use its discretion in determining the duration of maternity leave, based upon a doctor's statement, the health of the employee, and the nature of the job held by the employee. The employee shall not be required to return to work until the end of forty-two (42) calendar days after the birth of the child, but must return to work within sixty (60) calendar days after the birth of the child unless evidence is presented that she is physically unable to return to work.

In the granting of maternity leave, the employee may utilize both vacation leave and sick leave prior to taking leave without pay. It is not

mandatory, however, that the employee utilize either sick leave or vacation leave; the employee may also utilize leave without pay in lieu of sick leave and vacation leave. Benefits will not be paid during leave without pay.

An employee who is pregnant may be permitted to work as long as health permits and as long as she can function competently in her position; however, a doctor's statement must be sent to the board of mayor and aldermen during the seventh month and the eighth month of pregnancy, stating that the employee is not being adversely affected by continued employment. The immediate supervisor must also submit a statement during the seventh month and the eighth month of employment to the board that the employee is currently functioning effectively on the job.

Employees are permitted to use up to a maximum of thirty (30) working days of sick leave and up to a maximum of twenty (20) working days of vacation leave prior to taking leave without pay for maternity purposes. (1988 Code, § 1-707)

4-208. Military leave. An employee who is a member of the Organized Reserve or National Guard and who is required to attend a summer camp or perform emergency service with his/her unit:

(1) Shall have the option of refunding military pay in order to receive basic pay, or,

(2) Forfeiting his basic pay for military pay. The provisions of this paragraph shall not be operative in cases of mobilization for more than temporary employees. (1988 Code, § 1-708)

4-209. Jury leave. The town expects each regular full-time employee to assume all the obligations of citizenship. Except in extreme cases the town will not attempt to have an employee excused from jury duty, however, the employee:

(1) Shall have the option of refunding jury pay in order to receive basic pay, or

(2) Forfeiting his basic pay for jury pay. (1988 Code, § 1-709)

4-210. Leave without pay. The board of mayor and aldermen may grant leaves of absence without pay to full-time employees. Leave may be granted for any legitimate purpose, but such leave will not be granted if it is detrimental to the best interests of the town. Application for such leave shall be made in writing well in advance of the date desired. (1988 Code, § 1-710)

4-211. Absence without leave. No employee shall absent himself from duty without the express permission of his/her immediate supervisor. Absence without leave will be sufficient cause for forfeiture of all rights and privileges earned while employed. After three (3) days of unsatisfactorily explained

absence, the employee will be considered as having voluntarily terminated his/her employment. (1988 Code, § 1-711)

4-212. Leave records. The town shall maintain a record of the type and duration of all leaves taken by each employee. Shortly after the first of the calendar year, each employee will be furnished with a record of his/her annual vacation and unused sick leave credits. (1988 Code, § 1-712)

CHAPTER 3

PERSONNEL REGULATIONS

SECTION

4-301. Purpose. The purpose of the town's personnel regulations is to establish uniform provisions and standards for the personal conduct of all employees, whether on or off the job, and outline the disciplinary measures which shall be taken for violations of the standard of conduct. (1988 Code, § 1-801)

4-302. Applicability. These regulations shall apply to all regular salaried and hourly wage employees of the town, except elected officials, members of boards or commissions, part-time and temporary employees. (1988 Code, § 1-802)

4-303. Definitions. (1) "Probationary employee." Each person employed by the town will be a probationary employee for a period of six consecutive months for his/her date of employment. This probationary period is a test period designed to acquaint the employee with his job and to allow his supervisor to observe the employee's work and attitude. During the probationary period the employee accumulates annual vacation and sick leave benefits but is not entitled to use these benefits until the completion of the probationary period. An employee who has not been certified as a full-time employee when leaving the employment of the town will not be compensated for annual vacation earned.

(2) "Full-time employee." Upon the completion of his/her probationary period and with the approval of the board of mayor and aldermen, the new employee shall be considered a full-time employee.

(3) "Part-time employee." A part-time employee is one who regularly works a shorter period of time than the normal work week of the department to which he/she is assigned.

(4) "Temporary employee." A temporary employee is one who has been hired for a short period of time whether definite or indefinite. A temporary employee is not eligible for the benefits available to a full-time employee and will not be paid for holidays occurring during employment. (1988 Code, § 1-803)

4-304. Conduct. As members of a unit of government the employees of the town are expected to conduct themselves in a manner which will bring no

discredit to the town. Although the employee's off duty time is his/her own, any action which may affect his/her work will be treated in the same manner as misconduct on duty.

The following list is not all inclusive, but is indicative of the forms of misconduct governed by these policies and regulations:

(1) Political activity. The policy of the board of mayor and aldermen provides that no employee of the town shall be an active participant in any political campaigns while on town time.

(2) Intoxication. Any employee who is observed drinking alcoholic beverages while on duty shall be subjected to disciplinary action. Any employee who reports for work while under the influence of alcoholic beverages will either be placed on a three (3) day leave without pay, or dismissed.

(3) Contacts with town aldermen. The individual aldermen is not a personnel officer. Grievances should be submitted to the immediate supervisor and may then be appealed to the board. The board is to be considered a s a "court of last resort" and grievances shall be taken to the board in written form, only at a regular or special called meeting.

(4) Insubordination. All employees are expected to obey the orders of their superiors. If any employee believes than an order give to him/her is unreasonable or improper, he shall follow the grievance procedures outlined above.

(5) Town property. Any employee who abuses or misuses any item or town property will be disciplined whether the property has been damaged or not. The pilfering, theft, or vandalism of any town property held in trust by the town may result in the dismissal and/or prosecution of the employee involved. No employee shall use any town property or time for personal gain.

(6) Misuse of privileged information. No employee shall use his position for personal profit by virtue of advance knowledge of town affairs or other matters of a confidential nature.

(7) Solicitation of gratuities. No employee shall solicit nor shall he/she accept any gratuities or gifts for the performance of municipal services. Gifts from salesmen shall not be solicited and under no circumstances shall any gift be accepted that is tendered by a salesman as an incentive for recommending the purchase of any item.

(8) Falsification of records. An employee who falsified his/her work reports that refer to the work done or the time spent on the job shall be dismissed. Oral reports will be treated in the same manner as written reports. (1988 Code, § 1-804)

4-305. <u>Disciplinary action</u>. Disciplinary action may take the form of outright dismissal from the job, or may be in the form of a lay-off without pay for one (1) or more days. The immediate supervisor may suspend any employee for a period of not more than three (3) days but a more severe penalty may be given with the approval of the board. Employees may appeal any suspension

imposed by their immediate supervisor to the board. The mayor shall have the authority to suspend or dismiss any town employee for just cause. He shall do so in writing and will specify the reason therein. The mayor shall, if requested by the employee, call the board together within five (5) days of receiving a written request from that employee to allow the board to review said suspension or dismissal and to take any action that it deems appropriate.

A temporary employee who is accepted as a full-time employee shall have his continuous employment immediately prior to his full-time status used in computing sick leave and annual vacation benefits.

Town hall employees are expected to work overtime from time to time and will be compensated for such overtime unless, according to the Fair Labor Standards Act. Employees who do volunteer work are expected by the town to perform this work during their off duty hours. (1988 Code, § 1-805)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM[1]

SECTION

4-401. Title. This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of City of Pikeville. (1988 Code, § 1-901, as replaced by Ord. #5-12-O03, July 2003, and Ord. #11-12-013, Dec. 2013)

4-402. Purpose. The City of Pikeville, in electing to update their established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

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

(a) Top management commitment and employee involvement;

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

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

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

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

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and

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[1]The plan of operation for the occupational safety and health program is included in its entirety as Appendix A.

personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (1988 Code, § 1-902, as replaced by Ord. #5-12-O03, July 2003, and Ord. #11-12-013, Dec. 2013)

4-403. Coverage. The provisions of the occupational safety and health program plan for the employees of City of Pikeville shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1988 Code, § 1-903, as replaced by Ord. #5-12-O03, July 2003, and Ord. #11-12-013, Dec. 2013)

4-404. Standards authorized. The occupational safety and health standards adopted by the City of Pikeville are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (1988 Code, § 1-904, as replaced by Ord. #5-12-O03, July 2003, and Ord. #11-12-013, Dec. 2013)

4-405. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed

sufficient notice to employees. (1988 Code, § 1-905, as replaced by Ord. #5-12-O03, July 2003, and Ord. #11-12-013, Dec. 2013)

4-406. Administration. For the purposes of this chapter, the City of Pikeville is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #5-12-O03, July 2003, and Ord. #11-12-013, Dec. 2013)

4-407. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the mayor and board of aldermen. (as added by Ord. #5-12-O03, July 2003, and Ord. #11-12-013, Dec. 2013)

4-408. Severability. If any section, sub-section, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. (as added by Ord. #5-12-O03, July 2003, and Ord. #11-12-013, Dec. 2013)

4-409. Amendments, etc. The ordinance comprising this chapter shall take effect from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the City of Pikeville requiring it. (as added by Ord. #5-12-O03, July 2003, and Ord. #11-12-013, Dec. 2013)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

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's the intent of this policy to assure fair and equitable treatment to all individuals traveling on town business at town expense. (Ord. #10C-19-093, Oct. 1993)

4-502. Enforcement. The chief administrative officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #10C-19-093, Oct. 1993)

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 CAO. 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 CAO 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 CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

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

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

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (Ord. #10C-19-093, Oct. 1993)

4-504. Travel reimbursement rate schedule. Authorized travelers shall be reimbursed according to the federal travel regulation rates. The town's travel reimbursement rates will automatically change when the federal rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #10C-19-093, Oct. 1993)

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 town recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #10C-19-093, Oct. 1993)

CHAPTER 6

THEFT OR DESTRUCTION OF ANY WORK PRODUCT OR TOWN PROPERTY

SECTION

4-601. Destruction, etc. of work product or town property. Each and every employee, public official, and/or contractor of the Town of Pikeville in the course of his or her duties as such employee, public official, and/or contractor shall not conceal, destroy, alter, or cause to be concealed, destroyed or altered any paperwork, file, or memorandum which has been produced or generated in furtherance of the objectives of the Town of Pikeville, Tennessee. (Ord. #6B-10-096, Aug. 1996)

4-602. Theft, etc. of work product or town property. It shall be unlawful for any person, employee, public official, contractor, or independent contractor to knowingly retain, conceal, remove, take possession of, cause the removal of, alter, amend, or transfer any paperwork, file, memorandum, notes, computer print-out, or any other information stored in a computer memory, whether stored in hard copy or paperform, on disc or diskette, generated or produced in furtherance of the objectives of the Town of Pikeville, Tennessee, or in the process of such employment without the prior written consent of the board of mayor and aldermen. All the aforementioned tangible or intangible items shall be considered property of the Town of Pikeville, Tennessee, and shall remain in the possession of and in the custody of the Town of Pikeville, Tennessee, after the termination of said employment, tenure, term of office, or course of contract. (Ord. #6B-10-096, Aug. 1996)

4-603. Violation. Any violation to this chapter shall be punishable as Class C misdemeanor, and in addition thereto, be punishable by a fine of not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00). (Ord. #6B-10-096, Aug. 1996)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for town funds. The First National Bank of Pikeville, Tennessee, and the Citizens Bank of Pikeville, Tennessee, are hereby designated as the official depositories for all town funds. (1988 Code, § 6-101)

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[1]Charter reference
Taxation: § 17.

CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES

SECTION

5-201. When due and payable.[1] Taxes levied by the town against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1988 Code, § 6-201)

5-202. When delinquent--penalty and interest.[2] All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.[3] (1988 Code, § 6-202)

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[1]State law references

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

[2]Charter and state law reference

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

[3]Charter and state law references

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

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

CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the act. (1988 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1988 Code, § 6-302)

CHAPTER 4

WHOLESALE BEER TAX

SECTION
5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the 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] (1988 Code, § 6-401)

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

CHAPTER 5

PROCUREMENT CODE

SECTION

5-501. Policy. It is the policy of the City of Pikeville to obtain goods and services needed for the efficient operation of city government by using a variety of procurement methods in order to achieve purchases that meet quality, performance and delivery standards with fair and competitive pricing and value by using procedures that are consistent with the city's needs while complying with applicable federal and state laws. It is to achieve these policy goals that this procurement code is adopted. (as added by Ord. #1-13-014, Feb. 2014)

5-502. Roles and responsibilities. (1) It is the role and responsibility of the board of mayor and aldermen to fulfill the purchasing duties established by the city charter; to establish a budget; to approve all non-emergency procurements over twenty-five thousand dollars ($25,000.00); to approve the use of the competitive sealed proposal procedure; and, to receive reports of all emergency procurements.

(2) It is the role and responsibility of the mayor to fulfill the purchasing duties established by the city charter; to recommend all procurements and procurement methods over a fixed dollar amount to the board of mayor and aldermen, to approve all procurements and procurement methods which do not require board approval; and, to establish administrative procedures for procurements consistent with these obligations.

(3) It is the role and responsibility of the city recorder to fulfill the purchasing duties established for that office by the city charter and administrative procedures established by the mayor. The city recorder has the right to review all procurement for consistency with this procurement code and the administrative procedures established by the mayor.

(4) It is the role and responsibility of the city attorney to fulfill the purchasing duties established for that office by the city charter and the administrative procedures established by the city mayor and subject to review and approval all contracts of procurement.

(5) It is the role and responsibility of the purchasing agent to fulfill the duties established by this procurement code and the administrative procedures established by the mayor. These duties shall include but are not limited to developing the specifications for the goods to be purchased or the scope of work for the services to be purchased; preparing the invitation to bid, request for competitive sealed proposals or request for proposals; arranging for adequate and appropriate public notice or advertisement; evaluating all responses; preparing a purchase recommendation for the board of mayor and aldermen or department head as appropriate; ensuring correct documentation and execution of the contract or purchase order; and, ensuring delivery and/or performance of the purchased goods or services and payment for same. Unless otherwise designated by the mayor, on a continuing or an individual procurement basis, the purchasing agent for each department shall be the employee in the finance department primarily assigned to purchasing agent duties. (as added by Ord. #1-13-014, Feb. 2014)

5-503. Scope. This procurement code shall be applicable to all purchases, leases, lease-purchases and rentals of goods and services; it shall not be applicable to interests in land. (as added by Ord. #1-13-014, Feb. 2014)

5-504. Methods of procurement. The primary methods of procurement to be used by the city are:

(1) Purchases based on price competition, which includes competitive bidding;

(2) Purchases which are not based on price competition because of the existence of a single source or proprietary product;

(3) Purchases which are not based on price competition because of the existence of an emergency;

(4) Purchases based on competitive sealed proposals; and

(5) Purchases of services from a professional based on recognized competence and integrity. (as added by Ord. #1-13-014, Feb. 2014)

5-505. Purchases based on price competition. There are a variety of procurement methods based on price competition which the city may use consistent with applicable laws.

(1) Price competition requires public advertisement and competitive sealed bids by the city for all contracts for more than twenty-five thousand dollars ($25,000.00) unless there is an applicable exception.

(2) A purchase based on price competition which does not require public advertisement and acceptance of competitive sealed bids by the city,

regardless of amount, includes a purchase where the competitive process has been undertaken by others. These exceptions include, but are not limited to:

(a) A purchase made under the provisions of contacts or price agreements entered into by the Tennessee central procurement office pursuant to Tennessee Code Annotated, § 12-3-1201, generally referred to as purchasing off the state bid;

(b) A purchase made under the provisions of contracts or bids from the United States General Services Administration in accordance with applicable federal regulations pursuant to Tennessee Code Annotated, § 12-3-1201;

(c) A purchase made from a local vendor of items available for purchase under the provisions of contracts or price agreements entered into by the Tennessee central procurement office if and only if the city is not permitted to purchase the item under said existing contract; the item equals or exceeds the specifications of the item on the state contract; and, the item is available at the same or lower cost than under the state contract, as specified in Tennessee Code Annotated, § 12-3-120l(d);

(d) A purchase of supplies, equipment or services made through another local governmental unit of the state in accordance with Tennessee Code Annotated, § 12-3-1203(a);

(e) A purchase of supplies, goods, equipment or services under contracts entered into by another Tennessee local government in accordance with Tennessee Code Annotated, § 12-3-1203(c) excluding motor vehicles (except those manufactured for a special purpose);

(f) A purchase made from any instrumentality created by two (2) or more cooperating governments, including those established pursuant to the Interlocal Cooperation Act, Tennessee Code Annotated, § 12-9-101, et seq.;

(g) A purchase made from a nonprofit corporation whose purpose, or one (1) of whose purposes, is to provide goods and services specifically to municipalities specifically the Local Government Corporation in accordance with Tennessee Code Annotated, § 6-56-302(6); and

(h) A purchase made through a cooperative purchasing agreement with other local governments within or without Tennessee, in accordance with Tennessee Code Annotated, § 12-3-1205; said purchasing agreements shall be authorized by resolution.

(3) A purchase based on price competition which does not require public advertisement and acceptance of competitive bids by the city, regardless of amount, includes the purchase of used or secondhand goods, equipment, materials, supplies or commodities. If the purchase is from a private individual or entity, purchasing of used or secondhand items is only permissible if the general range of values of the item can be established by a listing in a nationally recognized publication or through a licensed appraiser and the price is not more

than five percent (5%) higher than the highest value of the documented range, in accordance with Tennessee Code Annotated, § 12-3-1202.

(4) A purchase based on price competition which does not require public advertisement and acceptance of competitive bids by the city, regardless of amount, include the purchase of new or second hand goods, equipment, supplies and commodities at a publicly advertised auction but only pursuant to written procedures established by resolution by the board in accordance with Tennessee Code Annotated, § 12-3-1006.

(5) A purchase based on price competition which does not require public advertisement by the city include those where the value of the good or services are twenty-five thousand dollars ($25,000.00) or less. The approved methods of procurement will vary depending on the price or type of item. The city mayor will establish consistent procedures for such procurement. If the dollar amount is between seven thousand five hundred dollars ($7,500.00) and twenty-five thousand dollars ($25,000.00) three (3) competitive quotations, when possible, must be obtained in writing.

(6) A purchase based on price competition which does not require sealed bids is a purchase made by a reverse auction in accordance with Tennessee Code Annotated, § 12-3-1208. The reverse auction process may be utilized only after the city's plan, policy and procedures have been filed with the comptroller of the treasury. The reverse auction process allows offerors to bid on specified goods or services electronically and to adjust their offer price during a specified time period.

(7) A purchase of perishable commodities made on the open market does not require public advertisement and competitive bids if a record is made by the person authorizing the purchase which specifies the amount paid, the items purchased and from whom the purchase was made in accordance with Tennessee Code Annotated, § 6-56-304(7). Any such purchases shall be reported at least monthly to the board of mayor and aldermen. If this method is used for fuel and fuel products, the purchase should be based, whenever possible, on three (3) competitive prices. (as added by Ord. #1-13-014, Feb. 2014)

5-506. Sole sources purchases. The purchase of a particular good or service does not require public advertisement and competitive bidding, regardless of amount, if there is a single or sole source of supply of the good or service needed by the city. The board shall be informed of all reason making the proposed sold source procurement appropriate if the item costs more than twenty-five thousand dollars ($25,000.00). If the item costs less than twenty-five thousand dollars ($25,000.00), a record of such purchase specifying the amount paid, the item purchased and the vendor shall be made by the person authorizing the purchase. (as added by Ord. #1-13-014, Feb. 2014)

5-507. Emergency purchases. (1) The city mayor is authorized to make emergency purchases of supplies and materials in the open market for

immediate delivery in actual emergencies arising from unforeseen causes including delays by contractors, delays in transportation, unanticipated volumes of work, the failure to receive competitive bids from prospective bidders and other similar emergencies.

(2) The mayor shall attempt to receive competitive quotations from supplies before making said emergency purchases. The mayor may also use competitive sealed proposals for emergency purchases.

(3) A report of such emergency purchases in writing shall be made together with a record of the prices secured together with a full and complete account of the circumstances of such emergency. Such a report shall be made within two (2) working days following the date of such purchase or purchase order and shall be kept on file in the office of the city recorder and shall be open to public inspection. A copy of the report shall be presented to the board at or before the next regular board meeting.

(4) The limit for such emergency purchases shall be fifty thousand dollars ($50,000.00) except for emergency purchases involving the health, safety or welfare of the city residents, such as but not limited to emergency purchases for the water and sewer department, where repairs and parts cannot wait for the bidding process or council approval at a regular meeting. In these cases, such emergency purchases shall not exceed two hundred thousand dollars ($200,000.00) and shall require the approval of the mayor and vice-mayor in the absence of the mayor. For the purposes of this section, in the absence of the mayor, the vice-mayor has authority to act for and on behalf of the mayor. (as added by Ord. #1-13-014, Feb. 2014)

5-508. Competitive sealed proposal purchases. (1) The use of competitive bids may not be practical or advantageous to the city when qualifications, experience or competence are more important than price in making a purchase. In such events, the board may decide to use competitive sealed proposals. Competitive sealed proposals may be used with board approval only in the event of an actual emergency which emergency must be documented.

(2) Competitive sealed proposals may only be used if there is more than one (1) solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution of if there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one (1) or more solutions.

(3) Competitive sealed proposals shall be used in accordance with the provisions of Tennessee Code Annotated, § 12-3-1207.

(4) Adequate public notice of competitive sealed proposals must be given. The notice method(s) used shall be the same as for competitive bids for purchases of more than twenty-five thousand dollars ($25,000.00).

(5) The request for competitive sealed proposals shall state the factors to be used to evaluate the proposals, including price, and shall state their relative importance in the evaluation. The request for competitive sealed

proposals shall state that the evaluation shall determine whose proposal is the most advantageous to the city taking into consideration all of the stated factors. The request for competitive sealed proposals may state that price shall be separately submitted and included in the evaluation through a multi-step process. A multi-step process may include submission of pricing before or after the evaluation and any discussion of the proposals with the proposers.

(6) The competitive sealed proposals shall not be disclosed during the negotiation and evaluation process, which shall follow their submittal and opening, but they shall be made open for public inspection after the intent to award the contract to a particular proposer is announced.

(7) After the competitive sealed proposals are submitted, the city may but is not required to, conduct discussions to clarify and to assure full understanding of the proposal and its responsiveness to the city's requirements, provided that all responsible proposers whose proposals are reasonably capable of being selected are afforded fair and equal treatment. During these discussions, the city may not disclose to one proposer information derived from another proposal.

(8) As a result of these discussions, proposers may but are not required to be allowed to make revisions to their proposals so that the city may obtain the best and final offer from each proposer if said revisions are submitted and received before the city's intent to award to a particular proposer is announced.

(9) In recommending a particular proposal for acceptance, the purchasing agent shall describe the basis on which the award is made.

(10) Each proposer shall be notified of the proposer selected for recommendation to the board before the proposed board action. A protest by an aggrieved proposer who is not selected will be heard by the board if filed with the board, through the city recorder, within seven (7) days after the intended award is announced.

(11) Any issue raised by the protesting party after the seven (7) day period shall not be considered as part of the protest. The board may stay an award due to a pending protest without financial or other obligation to the proposer recommended to the board. The board may, by resolution, adopt rules and procedures applicable to protests. (as added by Ord. #1-13-014, Feb. 2014)

5-509. Purchases of services from a professional. (1) Contracts from services to be performed by a lawyer, accountant, architect, engineer, fiscal agent, financial advisor, educational consultant, or a similar service to be performed by a professional person or group of professional persons shall not be based upon competitive bids but upon the basis of recognized competence and integrity in accordance with Tennessee Code Annotated, § 12-3-1209 and other provisions of state law.

(2) In procuring professional services the city may, but is not required to, issue a Request for Qualifications (RFQ) or/and a Request for Proposals

(RFP) or to help it identify individuals or firms with relevant qualifications and experiences.

(3) If the city is seeking architectural or engineering services and it does not choose to obtain them from an architectural or engineering service provider with whom it has a satisfactory existing working relationship or if the scope of needed services is outside the known technical competencies of the city's existing professional services providers, the cit shall comply with Tennessee Code Annotated, § 12-4-107.

(4) If the RFQ and/or RFP process is used for architectural or engineering services, the purchasing agent shall seek information from any firm licensed in Tennessee relevant to their qualifications and experience relative to the scope of the work, the complexity of the work, the professional disciplines required to satisfactorily perform the work and the estimated value of the services to be rendered. The purchasing agent, or a selection committee, as specified in the RFQ and/or RFP, may interview the firm regarding the furnishing of the required services. The purchasing agent or selection committee shall then select the firm deemed qualified and seek to negotiate a contract for the needed services for compensation determined to be fair and reasonable to the city. If these negotiations do not result in a satisfactory contract, negotiations may continue with other qualified individuals or firms until an agreement is reached.

(5) For fiscal agent, financial advisor or advisory services to be provided to the city, a written contract must be entered into prior to, or promptly upon, the inception of the relationship specifying the services to be rendered and the costs and expenses to be covered under the contract.

(6) Contracts for energy related services that include both engineering services and equipment and which have as their purpose the reduction of energy costs in public facilities shall be awarded on the same basis as contracts for professional services in accordance with Tennessee Code Annotated, § 12-4-110. (as added by Ord. #1-13-014, Feb. 2014)

5-510. Water storage tank painting and maintenance. The city, in accordance with Tennessee Code Annotated, § 12-4-112, may use a request or proposal process for the painting and maintenance of water storage tanks and appurtenant facilities or may competitively bid such contracts. (as added by Ord. #1-13-014, Feb. 2014)

5-511. Terms and conditions. (1) Any and all notices, advertisements, invitations to bid or requests to propose, or other procurement method shall state that the city has and retains the power to reject any and all bids or proposals. This power shall exist whether or not expressly so reserved.

(2) In evaluating any bid or proposal, including those based on price competition and those using competitive sealed bids, the city may consider whether the bidder or proposer is responsible and disqualify from consideration

any non-responsible bidder or proposal. A bid or proposal may be disqualified based on any of the following:

(a) Ability to perform the contract or to provide the material or service required;

(b) Ability to provide the material or service within the time specified without delay or interference;

(c) The character, integrity, reputation, experience and efficiency of the bidder or proposer;

(d) The previous and existing compliance by the bidder or proposer with laws and regulations relating to the contract or service;

(e) The ability of the bidder or proposer to provide future maintenance and/or service;

(f) The terms and conditions stated in the bid or proposal; and

(g) Past performance with the city by bidder or proposer.

(3) The city may, but only to the extent the city attorney deems allowed by federal and state law, give preference in competitive procurements to Tennessee goods and services.

(4) The city shall use life cycle cost of commodities as developed and disseminated by the federal government in accordance with Tennessee Code Annotated, § 12-3-903.

(5) The city shall if required, and may if authorized by federal or state law, use energy efficiency standards in its procurement process in accordance with Tennessee Code Annotated, §§ 12-3-904 through 12-3-911, et seq.

(6) The city shall include re-refined or recycled motor oil in its specifications for competitive bids for lubricating motor oil, if any, in accordance with Tennessee Code Annotated, § 12-3-807 unless specialized equipment or circumstances require specialized treatment.

(7) The city shall not be obligated to award any contract or to make any purchase if:

(a) The contract or purchase would violate conflict of interest laws or the city's ethical standard policy;

(b) The vendor does not provide or complete all requirements for a valid city contract including but not limited to: non-collusion affidavits; illegal immigrant affidavits; payment and performance bonds; proof of insurance; retainage agreements; grants assurance certifications; drug free workplace policy certifications; proof of corporate existence and good standing; and, proof of required licenses or permits.

(8) Bid specifications for the purchase of chemical products shall require that the manufacturer create and maintain a material safety data sheet in accordance with Tennessee Code Annotated, § 6-56-307. (as added by Ord. #1-13-014, Feb. 2014)

5-512. Rejection of bids and proposals. The mayor shall have the right to reject all submittals for a particular procurement (whether submitted

as quotations, bids, proposals, or in some other format) and to authorize the reissuance (with or without revision) of the procurement. Any such rejection and reissuance may be timely appealed to the board in accordance with § 5-513, Protest. (as added by Ord. #1-13-014, Feb. 2014)

5-513. Protests. A participant in a city procurement may protest any such procurement. If the board is required to approve the procurement award, the decision on the protest shall be made by the board. If the procurement does not require the board approval in advance of the award, the decision on the protest shall be made by the mayor. Protests of competitive sealed proposals shall be made in accordance with § 5-508 and any resolution related thereto. Protests of procurements made by other methods shall be made in accordance with such rules and procedures as the council may adopt by resolution. (as added by Ord. #1-13-014, Feb. 2014)

TITLE 6

LAW ENFORCEMENT

CHAPTER

CHAPTER 1

POLICE AND ARREST[1]

SECTION

6-101. Policemen subject to chief's orders.[2] All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue.

An officer must be a high school graduate or its equivalent; must make himself available to take the training courses that will be made available to him from time to time to increase his skill and knowledge and make him better qualified to perform the duties of a police officer.

All officers will be subject to the town's personnel policies and regulations as well as the Police Department Rules and Procedure Manual. (1988 Code, § 1-401)

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

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[1]Charter reference
Police force: § 15.
Municipal code references
Litter control; police department: § 13-407.
Slum clearance; duties of police department: § 13-311.
Traffic citations, etc.: title 15, chapter 7.

[2]Charter references
Appointment: § 15.
Compensation: § 20.

assist the town court during the trail of cases. Policemen shall also promptly serve any legal process issued by the town court. (1988 Code, § 1-402)

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

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1988 Code, § 1-403)

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. (1988 Code, § 1-404)

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 building inspector 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 building inspector in the building department shall have the authority to issue citations in lieu of

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

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

arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

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

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (1988 Code, § 1-405)

6-106. Summonses 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 utilities supervisor 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, liter 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 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 § 6-105 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. (1988 Code, § 1-406)

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. (1988 Code, § 1-407)

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER

CHAPTER 1

FIRE DISTRICT

SECTION

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

The Central Business District of the Town of Pikeville to include the area bounded by Frazer Street on the East, Grove Street on the West, Jail Street on the South, and Highways #127 and #30 on the North. (1988 Code, § 7-101)

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

CHAPTER 2

FIRE CODE[1]

SECTION

7-201. Fire code adopted. 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] 1999 edition, as recommended by the Southern Building Code Congress International, Inc. is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the town recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1988 Code, § 7-201, modified)

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. (1988 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 Pikeville, Tennessee. (1988 Code, § 7-203)

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

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

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

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

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

(4) The district referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire district as set out in § 7-101 of this code. (1988 Code, § 7-204, modified)

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. (1988 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. (1988 Code, § 7-206)

7-207. 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 taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The 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. (1988 Code, § 7-207, modified)

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT[1]

SECTION

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

7-302. Objectives. The 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 prevent loss of life from asphyxiation or drowning.
(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1988 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the volunteer fire department shall set up the organization of the department, make

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

definite assignments to individuals, and formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department. (1988 Code, § 7-303)

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

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

All personnel of the volunteer fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1988 Code, § 7-305)

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

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1988 Code, § 7-308)

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

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

(1) The Local Government Emergency Assistance Act of 1987, Public Acts of 1987, Chapter 155.[1]

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[1]State law reference

The Local Government Emergency Assistance Act of 1987, Chapter 155, Public Acts of 1987 authorizes any municipality or other local governmental entity to go outside of its boundaries in response to a request for emergency assistance by another local government. It does not create a duty to respond to or to stay at the scene of an emergency outside its jurisdiction.

This act does not require written agreements between the requesting or responding local governments. However, it does require that each local government establish policies and procedures to be followed in requesting and responding to requests for emergency assistance. The policies and procedures must be approved by the boards of mayor and aldermen before they go into effect. The policies and procedures may cover only one service, several services, or all of the services named in the Act. They may also include a provision for compensation for emergency assistance.

The Act provides that the senior officer of the requesting party will be in command at the scene of the emergency.

The Act outlines the liabilities of the requesting and responding governments as follows: (1) Neither the responding party nor its employees shall be liable for any property damage or bodily injury at the actual scene of any emergency due to actions performed in responding to a request for emergency assistance; (2) The requesting party is not liable for damages to the equipment and personnel of the responding party in response to the request for emergency assistance; and(3) Neither the requesting party nor its employees is liable for damages caused by the negligence of the personnel of the responding party while enroute to or from the scene of the emergency.

(2) Tennessee Code Annotated, § 12-9-101 et seq.[1]
(3) Tennessee Code Annotated, § 6-54-601.[2] (1988 Code, § 7-401)

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[1]State law reference

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

[2]State law reference

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

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS: FOR CONSUMPTION ON PREMISES.
2. INTOXICATING LIQUORS: RETAIL PACKAGE STORES.
3. BEER.

CHAPTER 1

INTOXICATING LIQUORS: FOR CONSUMPTION ON PREMISES

SECTION
8-101. Subject to certain statutes and regulations.
8-102. Terms defined.
8-103. Intoxicating liquors for consumption on premises.
8-104. Regulations and prohibited practices.
8-105. Revocation of beer permit reported to alcoholic beverage commission.
8-106. Prohibited sexual or pornographic conduct.
8-107. Privilege taxes.
8-108. Violations; penalty.

8-101. Subject to certain statutes and regulations. (1) The general provisions of the state law relating to intoxicating liquors as contained in Tennessee Code Annotated, § 57-4-101, et seq., are hereby adopted as part of this chapter and by reference are fully incorporated in this chapter.

(2) Various rules and regulations promulgated from time to time by the Tennessee Alcoholic Beverage Commission and Department of Revenue regarding the sale of intoxicating liquors for consumption on premises are hereby adopted as a part of this chapter and by reference are fully incorporated herein.

(3) It shall be unlawful to sell wine and other alcoholic beverages as defined in Tennessee Code Annotated, § 57-4-102 to be consumed on the premises on any hotel, commercial passenger boat company, restaurant, commercial airlines, passenger trains, premier type tourist resort or club,

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[1]Municipal code reference
Drinking beer, etc., on streets, etc.; minors in beer places: title 11, chapter 1.
State law reference
Tennessee Code Annotated, title 57.

convention center, historic performing arts center, permanently constructed facility within an urban park center, any historic interpretive center, community theater, historic mansion house site, and restaurant in the terminal building of a commercial air carrier airport, any zoological institution, any museum, within the corporate limits of the city, except as provided by Tennessee Code Annotated, title 57, and by the rules and regulations promulgated thereunder, and as provided in this chapter. (1988 Code, § 2-101, as replaced by Ord. #1A-14-013, Feb. 2013)

8-102. Terms defined. The definitions set forth in Tennessee Code Annotated, § 57-4-102, the definitions set forth in regulations promulgated by the Alcoholic Beverage Commission. (as added by Ord. #1A-14-013, Feb. 2013)

8-103. Intoxicating liquors for consumption on premises. (1) No such business shall be located adjacent to a church, daycare, funeral home, school or within five hundred feet (500') of a public school, measured by the length of a straight line drawn from the closest points of the church or school building and the front door of the building proposed for the sale of intoxicating liquors for consumption on the premises.

For the purposes of this section, the terms "church" and "church building" shall not include any church building or building used for church purposes which is located on privately owned real property. "School" shall mean any primary or secondary public or private school building which is used exclusively for school purposes, and shall not include a vocational school or university.

(2) A licensee holding a license for selling intoxicating liquors for consumption on the premises of a restaurant shall illustrate that the licensee has adequate parking to provide one (1) parking space for an automobile for each two (2) seats in the place of business. (as added by Ord. #1A-14-013, Feb. 2013)

8-104. Regulations and prohibited practices. It shall be unlawful for any person, firm or corporation holding a license to sell intoxicating liquors for consumption on the premises to violate the rules, regulations, and prohibited practices set forth in Tennessee Code Annotated, §§ 57-4-201 and 57-4-203, which code sections are incorporated herein as if copied verbatim in their entirety. (as added by Ord. #1A-14-013, Feb. 2013)

8-105. Revocation of beer permit reported to alcoholic beverage commission. When any person, firm, or corporation holds both a license to sell intoxicating liquors for consumption on the premises and a beer permit, should the beer permit be revoked or suspended, the city recorder is hereby directed to send a certified copy of the revocation to the alcoholic beverage commission pursuant to Tennessee Code Annotated, § 57-4-202(b). In addition, when the person, beer board, board of mayor or aldermen are considering the suspension

or revocation of such beer permit, consideration shall also be given to suspending the licensee's license for the sale of intoxicating liquors for consumption on the premises as provided in Tennessee Code Annotated, § 57-4-202. Said person, beer board, or city council shall have the authority to suspend the liquor license of any such person, firm, or corporation as authorized by Tennessee Code Annotated, § 57-4-202. (as added by Ord. #1A-14-013, Feb. 2013)

8-106. Prohibited sexual or pornographic conduct. Tennessee Code Annotated, § 57-4-204 is incorporated herein as if copied verbatim in its entirety. The Pikeville Police Department is hereby authorized and directed to investigate and police the places of business holding a license to sell intoxicating liquors for consumption on premises and shall report violations to the alcoholic beverage commission as authorized by Tennessee Code Annotated, § 57-4-204(e), the board of mayor and aldermen having voted to authorize such investigations at its meeting on _____. (as added by Ord. #1A-14-013, Feb. 2013)

8-107. Privilege taxes. (1) Pursuant to Tennessee Code Annotated, § 57-4-301(b)(2) the city hereby levies the following taxes for the privilege of selling intoxicating liquors for consumption on the premises, which taxes shall be for municipal purposes to be paid annually to wit:

(a) Private club $300.00
(b) Hotel and motel $1,000.00
(c) Convention center $500.00
(d) Premier type tourist resort $1,500.00
(e) Restaurant, according to seating capacity, on licensed premises:
  (i) 75 through 125 seats $600.00
  (ii) 126 through 175 seats $750.00
  (iii) 176 through 225 seats $800.00
  (iv) 226 through 275 seats $900.00
  (v) 276 seats and over $1,000.00
(f) Historic performing arts center $300.00
(g) Urban park center $500.00
(h) Commercial passenger boat company $750.00
(i) Historic mansion house site $300.00
(j) Historic interpretive center $300.00
(k) Community theater $300.00
(l) Zoological institution $300.00
(m) Museum $300.00

The foregoing taxes shall be payable on the date the license is issued by the alcoholic beverage commission and the foregoing taxes shall be prorated from said date of issuance until the next following October 1, at which time, a full year's taxes shall then be due and immediately

payable. If a restaurant is licensed by the commission to sell wine only, pursuant to Tennessee Code Annotated, § 57-4-101(n), the privilege tax imposed pursuant to this section shall be one-fifth (1/5) the amount specified in subsection (1)(e) above.

(2) When any licensee shall fail to pay the initial privilege tax or any annual taxes due each October 1, there shall be imposed a penalty in the amount of five percent (5%) for each month of delinquency or part thereof not to exceed a total of twenty-five percent (25%), provided however each licensee shall have thirty (30) days from the due date before any penalty starts to accrue. Interest on the taxes shall accrue at the rate of twelve percent (12%) per annum until paid.

(3) All penalties imposed by this section and taxes provided by this section may be collected as other taxes payable to the city.

(4) Should the licensee also hold a beer permit issued by the city, a failure to pay taxes under this section shall constitute grounds for suspension or revocation of the beer permit. Repeated violations of this section will constitute grounds for permanent revocation of a beer permit. (as added by Ord. #1A-14-013, Feb. 2013)

8-108. Violations; penalty. Any violation of the provisions of this chapter shall, upon conviction, be punishable as a misdemeanor. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #1A-14-013, Feb. 2013)

CHAPTER 2

INTOXICATING LIQUORS: RETAIL PACKAGE STORES

SECTION

8-201. Definitions. Whenever used in this chapter the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits or wine and capable of being consumed by a human being, other than patent medicine, beer or wine, where either of the latter has an alcoholic content of five percent (5%) by weight, or less.

(2) "Applicant" means the party applying for a certificate of good moral character or a license.

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

(4) "Bottle" means any container, vessel, bottle or other receptacle used

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

(5) "Board" means the board of mayor and aldermen of the city.

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

(7) "City" means the City of Pikeville, Tennessee.

(8) "City recorder" means the city recorder of the city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(27) "Winery" means and includes any place or premises wherein wine is manufactured or brandies are distilled as the by-product of wine or where cordials are compounded.

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

(29) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57, chapter 3.

(30) "Words importing the masculine gender shall include the feminine and neuter, and the singular shall include the plural." (as added by Ord. #2A-20-013, March 2013)

8-202. Dealers in alcoholic beverages subject to regulations. It shall be unlawful for any person either to engage in the business of selling, storing, transporting, or distributing any alcoholic beverage within the corporate limits of the city or to sell, store, transport, distribute, purchase or possess any alcoholic beverage within the corporate limits of the town, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (as added by Ord. #2A-20-013, March 2013)

8-203. Manufacture of alcoholic beverages prohibited. It shall be unlawful for any person to manufacture any alcoholic beverage within the corporate limits of the city. (as added by Ord. #2A-20-013, March 2013)

8-204. Wholesalers. Unless hereafter authorized by an ordinance of the town, no wholesaler's license shall be granted to any person for the operation within the corporate limits of the city of any business for the sale at wholesale of any alcoholic beverage. Any wholesaler, whose business is located outside the city and who holds a valid state license, and who has paid to the city all privilege taxes and fees applicable to such wholesale business, may sell, at wholesale, any alcoholic beverage to a licensee in the city and such licensee may purchase any alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes, and by this chapter. (as added by Ord. #2A-20-013, March 2013)

8-205. Certificate of compliance as a prerequisite for a retail permit. Certificate of compliance as required by Tennessee Code Annotated, § 57-3-208, shall be a prerequisite for a retail permit to sell alcoholic beverages in the City of Pikeville. To be eligible to apply for or to receive a certificate of compliance, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license.

If the applicant is either a partnership or a corporation, then each partner of the partnership and each stockholder, director and officer of the corporation meet the eligibility requirements set forth in this section. (as added by Ord. #2A-20-013, March 2013)

8-206. Content of application for certificate of compliance.

(1) Each applicant for a certificate of compliance shall file with the board a completed form of application, on a form to be provided by the board of mayor and aldermen, which shall contain the following information:

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

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

(c) The address of the liquor store to be operated under the license and zoning designation applicable to such location;

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

(e) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within one hundred twenty (120) days after the license is granted to such applicant.

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

same application and shall also be accompanied by five (5) copies of a plan drawn to a scale of not less than one inch equals twenty feet (1" = 20'), giving the following information:

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

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

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

(d) A certification that there is no church, daycare, funeral home adjacent to the proposed location and that there is no school located within five hundred feet (500') of the proposed location of the liquor store. The application form shall be signed and verified by each person to have any interest in the licensee, either as owner, partner, or stockholder, director, officer or otherwise.

(3) If, at any time, the applicable state statutes shall be changed so as to dispense with the requirements of a certificate of compliance, no original or renewal license shall be issued until an application in the same form has been filed with the board. There shall be a statement that each applicant has been a resident of Tennessee for at least two (2) years immediately prior to the time the application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Tennessee not less than two (2) years at the time the application is filed. The recorder shall review each application, note any apparent questions, errors and insufficiencies and submit same to the board for consideration and action. (as added by Ord. #2A-20-013, March 2013)

8-207. Misrepresentation or concealment. A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the board shall forthwith report such violation to the state alcoholic commission together with the request that the state alcoholic beverage commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (as added by Ord. #2A-20-013, March 2013)

8-208. Restrictions on issuance of certificate of compliance. (1) No certificate of compliance shall be issued unless a license issued on the basis thereof to such applicant can be exercised without violating any provision of this chapter, the state statutes, the state rules and regulations or the federal statutes.

(2) The board shall not sign any certificate of compliance for any applicant until:

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

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

(c) The application has been considered at a meeting of the board and approved by a majority vote of the entire board; and

(d) The applicant meets the requirements set forth at Tennessee Code Annotated, § 57-3-208. (as added by Ord. #2A-20-013, March 2013)

8-209. Investigation fee. Each application for a certificate of compliance filed with the city shall be accompanied by a one hundred dollar ($100.00) fee payable to the city for investigating the applicant. (as added by Ord. #2A-20-013, March 2013)

8-210. Miscellaneous restrictions on licensees and their employees. (1) No certificate of compliance shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county; and it shall be unlawful for any such person to have any interest in the liquor retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

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

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

been issued and received, it shall be recommended that the said license shall be revoked.

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

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

(5) No licensee shall employ a person in the sale of alcoholic beverages who is not a citizen of the United States.

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

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

(8) It shall be unlawful for a licensee to advertise by signs, window displays, posters, or any other designs intended to advertise any alcoholic beverage within the corporate limits of the town, except by signs approved by the board not larger than four feet by eight feet (4' x 8') in designating the premises as "____ Package Store." Only two (2) such signs, and no other, shall be permitted, one (1) free standing and one (1) attached to the building. Nothing contained herein shall prohibit any manufacturer or wholesaler from advertising in news media.

(9) No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor, or representative for the purpose of receiving an order from a consumer for any alcoholic beverage at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place

of business of such consumer. This subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensee at the licensee's premises.

(10) All retail stores shall be confined to the premises of the licensee. No curb service shall be permitted nor shall there be permitted drive-in windows.

(11) No liquor store shall be located in the city on any premises above the ground floor. Each liquor store shall have only one main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail, provided, however, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as said lobby is open to the public.

(12) If a licensee is a corporation, then the addition to the other provisions of this chapter:

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

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

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

(14) Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual, or by a partner or corporate officer, if the licensee is a partnership or corporation. In every case where alcoholic beverage is sold by a licensee that is either a partnership or a corporation, the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the city recorder. (as added by Ord. #2A-20-013, March 2013)

8-211. <u>Nature and revocability of license</u>. The issuance of a license hereunder shall vest no property rights in the licensee and such license shall be a privilege subject to revocation or suspension as provided by the state statutes and state rules and regulations. In the event of any violation of the state statutes, state rules and regulation, federal statutes or of the provisions of this

chapter by a licensee or by any person for whose acts the licensee is responsible, the city recorder shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission or its successor and shall take such action before the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (as added by Ord. #2A-20-013, March 2013)

8-212. Display of license. The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (as added by Ord. #2A-20-013, March 2013)

8-213. Location of liquor store. Liquor stores may be operated and maintained on premises within the corporate limits, but only within the following listed zones as defined in the Zoning Ordinance of the City of Pikeville, Tennessee, as set out on the zoning map of the town, as in effect on the date of any application for a license hereunder:

A liquor store shall not be located adjacent to a church, daycare, funeral home, or within five hundred feet (500') of a public school as measured in a direct line from the closest points of the church or school building to the center of the front door of the licensee's place of business. For the purposes of this section, the terms "church" and "church building" shall not include any church building or building used for church purposes which is located on privately owned real property. "School" shall mean any primary or secondary public or private school building which is used exclusively for school purposes, and shall not include a vocational school or university.

To assure that these requirements are satisfied, no original or renewal certificate of compliance for an applicant for a license shall be issued for any location until a majority of the members of the board have approved the proposed location as being suitable for liquor store after a consideration of this matter at a meeting of the board. (as added by Ord. #2A-20-013, March 2013)

8-214. License non-transferable. A licensee shall not sell, assign, give, pledge, or otherwise transfer his license or any interest therein to any other person. No license shall be transferred from the licensee by operation of law through any proceedings in bankruptcy, insolvency, or receivership, or by execution, garnishment or other similar proceedings. No license shall be transferred from one location to another location without the prior written approval of the board. (as added by Ord. #2A-20-013, March 2013)

8-215. Limited times of operation. No retailer shall sell or give away any alcoholic beverages between 11:00 P.M. on Saturday night and 8:00 A.M. on Monday of each week and shall not sell, give away or otherwise disburse alcoholic beverages except between the hours of 8:00 A.M. and 11:00 P.M.

Monday through Saturday. Retail stores shall not be open to the general public except during regular business hours and shall be closed for business Thanksgiving Day and Christmas Day. In addition, no retailer shall sell or give away any alcoholic beverages on Christmas, Thanksgiving Day, Labor Day, New Year's Day and the Fourth of July. In the event of an emergency, liquor stores may be closed by order of the mayor. (as added by Ord. #2A-20-013, March 2013)

8-216. Minors, persons visibly intoxicated, and habitual drunkards. It shall be unlawful for any licensee to sell, furnish, or give away any alcoholic beverage to any person who is under twenty-one (21) years of age or to any person who is visibly intoxicated or to any person who is a habitual drunkard (any person under twenty-one (21) years of age or visibly intoxicated or a habitual drunkard being hereafter in this section referred to as "such person"). It shall be unlawful for any such person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in the licensee's liquor store or any part of the licensee's adjacent to the liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee for the purpose of selling or giving such alcoholic beverage to such person. (as added by Ord. #2A-20-013, March 2013)

8-217. Consumption on premises prohibited. It shall be unlawful for any licensee to sell or furnish any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. It shall be unlawful for any person to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store. It shall be unlawful for any licensee to allow any person to consume any alcoholic beverage in such licensee's liquor store or on the premises used by the licensee in connection therewith. (as added by Ord. #2A-20-013, March 2013)

8-218. Inspection fee. (1) There is hereby levied on each licensee in the city an inspection fee in the amount of eight per cent (8%) of the wholesale price of all alcoholic beverage supplied during each calendar month by a wholesaler to each licensee in the city. It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverage to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, concurrently with each such shipment or delivery, an invoice showing:

(a) The date of the transaction;

(b) The name and address of the wholesaler and of the licensee;

(c) The brand name and quantity of alcoholic beverage covered by the invoice; and

(d) The unit wholesale price and the gross wholesale price for each item listed thereon.

(2) The wholesaler's invoice shall be issued and delivered to the licensee as hereinafter provided without regard to the terms of payment or on credit or partly for cash and partly for credit. The inspection fee, computed as hereinabove provided shall be collected by the wholesaler as provided for in Tennessee Code Annotated, § 57-3-502 and shall be paid to the city recorder on or before the 15th day of each calendar month for the preceding calendar month. (as added by Ord. #2A-20-013, March 2013)

8-219. Inspection fee reports. The city shall prepare and make available to each licensee sufficient forms for the monthly report of the inspection fees payable by each licensee; and the city recorder is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records to be kept by each licensee. (as added by Ord. #2A-20-013, March 2013)

8-220. Records to be kept by licensee. (1) In addition to any records specified in the rules and regulations promulgated by the city recorder pursuant to the preceding section, each licensee shall keep on file at such licensee's liquor store the following records:

(a) Original invoices required above for all alcoholic beverages bought by or otherwise supplied to the licensee;

(b) Original receipts for any alcoholic beverage returned by such licensee to any wholesaler; and

(c) Accurate record of all alcoholic beverages lost, stolen, damaged, given away, or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverage involved, and, where known, the name of the person or persons receiving the same.

(2) All such records shall be preserved for a period of at least two (2) years unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. (as added by Ord. #2A-20-013, March 2013)

8-221. Inspections. The city recorder or city auditor are authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city fiscal officer or city auditor and the chief of police and other police officers of the city are authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers, and records of a licensee by a fiscal officer or auditor or the inspection and examination of the premises of a liquor

store, shall be a violation of this chapter and the city fiscal officer or auditor shall forthwith report such violation to the state alcoholic beverage commission with the request that appropriate action be taken to revoke the license of the offending licensee. (as added by Ord. #2A-20-013, March 2013)

8-222. Effect of failure to report and pay inspection fees. The failure to pay the inspection fee and to make the required reports accurately and within the time prescribed in this chapter shall, at the sole discretion of the board, be cause for the taking of such action as is necessary to suspend the offending licensee's license for as much as thirty (30) days, or to revoke said license. (as added by Ord. #2A-20-013, March 2013)

8-223. Use of funds derived from inspection fees. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the city. The city shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants and in seeing all provisions of this chapter are observed; and the board finds and declares that the amount of these inspections is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes. The inspection fee levied by this chapter shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages, and shall not be a substitute for any such taxes. (as added by Ord. #2A-20-013, March 2013)

8-224. Other violations by licensee. Any licensee, who in the operation of such licensee's liquor store, shall violate any federal statute, any state statute, or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages, shall be guilty of a violation of the provisions of this chapter. (as added by Ord. #2A-20-013, March 2013)

8-225. Licensee's responsibility. Each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (as added by Ord. #2A-20-013, March 2013)

CHAPTER 3

BEER

SECTION

8-301. Authority to grant, revoke, etc., beer permits. The board of mayor and aldermen is designated, appointed, and given authority for the purpose of granting, refusing, rescinding, or revoking permits for sale, storage and warehousing of beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) of weight within the corporate limits of Pikeville, Tennessee. (1988 Code, § 2-201, as replaced by Ord. #1-10-O05, Jan. 2005, and Ord. #1C-14-013, Feb. 2013)

8-302. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars ($250.00). Said fee shall be in the form of a cashier's check payable to the City of Pikeville. 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. (1988 Code, § 2-202, as replaced by Ord. #1C-14-013, Feb. 2013)

8-303. 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, 2013, and each successive January 1, to the City of Pikeville, 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. (1988 Code, § 2-203, as replaced by Ord. #1C-14-013, Feb. 2013)

8-304. Applicant shall file written application containing certain specific requirements. Before any permit is issued by the board of mayor and aldermen, the applicant therefore shall file with the board of mayor and aldermen a sworn petition in writing and shall establish the following:

(1) The name and residence of the applicant.

(2) The location of the premises at which the business shall be conducted.

(3) The owner or owners of such premises.

(4) That the applicant shall not engage in the sale of such beverages except at the place or places for which the board of mayor and aldermen has issued permits or permit, to such applicant.

(5) That no sale of such beverages will be made except in accordance with the permit granted.

(6) The applicant shall state as to whether the permit for the sale of beer is sought for consumption on the premises or for sale to be carried off the premises with no consumption on the premises.

(7) The application, if for a Class A off-premises consumption permit, is for a grocery store/convenience store; if for a Class A on-premises consumption permit is for a restaurant. All applicants shall state how many years that they have been in business at the premises to be licensed, and the straight-line distances to the closest school, the closest church, and to any other nearby place such as daycare center and funeral home.

(8) That neither the applicant nor any persons employed, or to be employed by him in such distribution or sale of such beverage, has ever been convicted of any violation of the law against prohibition, sale, possession, manufacture, or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(9) That the applicant has not had a license for the sale of legalized beer or other beverages of like alcoholic content revoked.

(10) The application shall state whether the person applying will conduct the business in person, or whether he is acting as agent for any other person.

(11) That no brewer or distiller of legalized beer or any other beverage of like alcoholic content has any interest, financial or otherwise, in the premises upon or in which the business to be licensed is carried on.

(12) That no brewer or distiller of legalized beer or any other beverages of like alcoholic content has any interest, financial or otherwise, in the business which is licensed, or requested to be licensed.

(13) That the applicant will not thereafter convey or grant any brewer or distiller of legalized beer of any other beverage of like alcoholic content any interest in either the business which is licensed to be carried on, or in any other property at which such business may thereafter be carried on.

(14) That the applicant has, at the time of making such application, no indebtedness or other financial obligation to any brewer or distiller of legalized beer or other beverage of like alcoholic content, and will not, during the period such license shall be in force, contract any financial obligation to any brewer or distiller of legalized beer or other beverage of like alcoholic content other than for the purchase of such beer or other beverage of like alcoholic content.

(15) This application shall be verified by the affidavit of the applicant, made before a notary public or the city recorder, and if any false statement is made in any part of such application the permit or license granted or issued to the applicant shall be revoked by the board of mayor and aldermen. (1988 Code, § 2-204, as replaced by Ord. #1C-14-013, Feb. 2013)

8-305. Permits issued for sale of beer within corporate limits for off-premises and on-premises consumption. No permit for the sale of beer shall be issued to any person, persons, firm, corporation, joint stock company, syndicate, partnership, or association for the sale of beer or other alcoholic beverage with an alcohol content not exceeding five percent (5%) by weight within the corporate limits of Pikeville, Tennessee, except as defined by the following classes of businesses:

(1) Class A off-premises consumption. To qualify for a Class A off-premises permit, an establishment must, in addition to meeting the other regulations in this chapter:

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

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

(c) The business privilege sales, and ad valorem taxes are maintained in a paid status at all times, and the majority of the gross sales of said businesses are derived from the retail sales of groceries, and which is not located within five hundred feet (500') of a church, daycare, funeral home, and which is not located within five hundred feet (500') of a school. No beer will be sold, warehoused, or distributed from any building other than the one to which the permit is for sale in the said grocery sore shall be permitted. Any beer or alcoholic beverage sold by

Class A permit holder shall not be opened or consumed on the licensed premises.

(2) Class A on-premises consumption. To qualify for a Class A on-premises consumption permit, an establishment must, in addition to meeting other regulations and restrictions in this chapter:

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

(b) Be able to seat a minimum of thirty (30) people, including children, in booths and at tables, in addition to any other seating it may have;

(c) Have all seating in the interior of the building under a permanent roof; and

(d) In addition, the monthly beer sales of any establishment which holds a Class A on-premises consumption permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked. The business privilege sales, and ad valorem taxes are maintained in a paid status at all times, and the majority of the gross sales of said businesses are derived from the retail sales of groceries, and which is not located within five hundred feet (500') of a church, daycare, or funeral home and which is not located within five hundred feet (500') of a school. No outside advertising of beer, or of various brands of beer, for sale on the said licensed premises shall be permitted. (1988 Code, § 2-205, as replaced by Ord. #1C-14-013, Feb. 2013)

8-306. Sales to minors or intoxicated persons unlawful. It shall be unlawful to sell or offer for sale any beverage falling within the provisions of this chapter to a person under the age of twenty-one (21) years or to a person in an intoxicated or partially intoxicated condition. (1988 Code, § 2-206, as replaced by Ord. #1C-14-013, Feb. 2013)

8-307. Hours and days of sale, etc., regulated. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) by weight within the corporate limits of Pikeville, Tennessee, between the hours of 3:00 A.M. and 8:00 A.M. on weekdays, or between the hours of 3:00 A.M. and 8:00 A.M. on Sundays. (1988 Code, § 2-207, as amended by Ord. #8B-24-093, Aug. 1993, and replaced by Ord. #1C-14-013, Feb. 2013)

8-308. Permittees not to allow minors to loiter about premises. It shall be unlawful for the management of any place where any beer or other beverage of like alcoholic content is sold within the corporate limits of Pikeville,

Tennessee, to allow any minor to loiter about such place or business and the burden of ascertaining the age of minor customers shall be upon the owner or operator of such place of business. (1988 Code, § 2-208, as replaced by Ord. #1C-14-013, Feb. 2013)

8-309. Unlawful for minor to misrepresent age. It shall be unlawful and a misdemeanor for any person under twenty-one (21) years of age to knowingly misrepresent his age in order to obtain or purchase beer within the corporate limits of the City of Pikeville, Tennessee, or to remain in a location where beer is legally being sold under the provisions of this chapter and where minors are not allowed. (1988 Code, § 2-209, as replaced by Ord. #1C-14-013, Feb. 2013)

8-310. The board of mayor and aldermen vested with the authority to conduct hearings on revocation or suspension of beer permits issued under this chapter. The board of mayor and aldermen of the City of Pikeville, Tennessee is vested with full and complete power to investigate charges against any permit holder who is cited to appear and show cause why his and/or its permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of the state beer laws of the State of Tennessee. Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board of mayor and aldermen. When the board of mayor and aldermen shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board of mayor and aldermen is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon permittee either by register mail or by a member of the police department of the city of. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the hearing the board of mayor and aldermen shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board of mayor and aldermen, in it discretion, may suspend or revoke said permit. The action of the board of mayor and aldermen in all such hearings shall be final, subject only to review by the court as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. In the event any person or persons, firm, corporation, joint stock company, syndicate, or association has its beer permit revoked for the second time for the violation of the provisions of this chapter or the state beer act of the State of Tennessee, then that person or persons, firm, corporation, joint stock company, syndicate,

or association shall not be granted a new permit for a period of three (3) years. In the event any person or persons, firm corporation, joint stock company, syndicate, or association has its beer permit revoked for a third violation of the provisions of this chapter or the provisions of the state beer act of the State of Tennessee, then that person or persons, firm, corporation, joint stock company, syndicate, or association shall never be granted a beer permit under the provisions of this chapter. (1988 Code, § 2-210, as amended by Ord. #10-9-012, Oct. 2012, and replaced by Ord. #1C-14-013, Feb. 2013)

8-311. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board. Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 67-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-6-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (1988 Code, § 2-211, as replaced by Ord. #1C-14-013, Feb. 2013)

8-312. Civil penalty in lieu of revocation or suspension.

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

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

permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars ($1,000.00) for any other offense. The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars ($1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (1988 Code, § 2-212, as replaced by Ord. #1C-14-013, Feb. 2013)

8-313. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (1988 Code, § 2-213, as replaced by Ord. #1C-14-013, Feb. 2013)

8-314. Violations. Except as provided in § 8-313, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (Ord. #8B-24-093, Aug. 1993, as replaced by Ord. #1C-14-013, Feb. 2013)

8-315. [Deleted.] (Ord. #8B-24-093, Aug. 1993, as deleted by Ord. #1C-14-013, Feb. 2013)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.[2]

SECTION

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

(1) "Peddler," means any person, firm or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or

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[1]Municipal 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.

[2]Municipal code references
Privilege taxes: title 5.
Trespass by peddlers, etc.: § 11-601.

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

(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 Bledsoe 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

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[1]State law reference

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

The definition of "transient vendors" is taken from Tennessee Code Annotated, § 67-4-709(a) (19). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay a tax of $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).

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. (1988 Code, § 5-101)

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

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

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the town 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 town recorder, the town recorder shall submit to the chief of police a copy of the application form and the permit. (1988 Code, § 5-104)

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

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the 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. (1988 Code, § 5-105)

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

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (1988 Code, § 5-107)

9-108. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the town 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 town recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1988 Code, § 5-108)

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

9-110. 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. (1988 Code, § 5-110)

CHAPTER 2

YARD SALES

SECTION

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Permit fee. An administrative processing fee of five dollars ($5.00) for the issuance of such permit shall accompany the application.

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

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

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

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

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

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

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

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

9-210. 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. (1988 Code, § 5-210)

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

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

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

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

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

9-212. 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. (1988 Code, § 5-212)

CHAPTER 3

CABLE TELEVISION

SECTION

9-301. To be furnished under franchise. Cable television shall be furnished to the Town of Pikeville and its inhabitants under franchise granted to Bledsoe Telephone Cooperative by the board of mayor and aldermen of the Town of Pikeville, Tennessee. The rights, powers, duties and obligations of the Town of Pikeville and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.[1]

[1]For complete details relating to the cable television franchise agreement see Ord. #_____ dated _____ in the office of the city recorder.

CHAPTER 4

FARMERS MARKET

SECTION

9-401. Establishment and bounds of the farmers market. (1) There is hereby established within the city limits of the City of Pikeville, Tennessee, a farmers market. The farmers market is hereby located on Cumberland Avenue. However, the Board of Mayor and Aldermen for the City of Pikeville, Tennessee, may change the location of the farmers market from time to time by resolution of the governing body of the City of Pikeville.

(2) The purpose of establishing a farmers market is to provide a safe and convenient place for farmers to sell their produce and citizens to make their purchases safely and without impeding the flow of traffic on and about Spring Street and the Bledsoe County Courthouse and to local businesses and government offices. (as added by Ord. #7A-28-014, Sept. 2014)

9-402. Who may use the farmers market. The privilege of using the farmers market may be extended to vendors for the purpose of selling, offering for sale, or exposing for sale, produce, vegetables, fruits, plants, and any other product of farm and garden, other than live animals, but including canned goods, grown in the State of Tennessee, during its appropriate growing season by farmers, truck growers, fruit growers, and horticulturists who are citizens and residents of the State of Tennessee. (as added by Ord. #7A-28-014, Sept. 2014)

9-403. Hours of the farmers market. (1) The hours during which the farmers market may be occupied and used by those whom the privilege of such use is extended are Monday through Sunday from daylight to dusk, but not be operated after 9:00 P.M. CST in any circumstances.

(2) No empty or partially loaded or loaded vehicle, trailer, etc., shall be allowed to occupy a portion of the farmers market for the purpose of pre-empting a position thereon. Further, no vehicle, trailer, awning, etc. shall remain on the premises after the hour of 9:00 P.M. CST. Vehicles and trailers, etc. found to be in violation of this provision shall be towed at the owner's expense.

(3) No vehicle shall be parked or exposed upon the farmers market for the purpose of selling that vehicle. Vehicles found to be in violation of this provision shall be towed at the owner's expense. (as added by Ord. #7A-28-014, Sept. 2014)

9-404. Hucksters, peddlers, etc. shall not use the farmers market. It shall be unlawful for any huckster, peddler, operator of a rolling store, or any other person that one to whom the privilege has been extended under the provisions of this chapter to come upon or to take any position upon the area of the farmers market at any time for the purpose of selling, offering for sale, or exposing for sale any fruits, vegetables, produce, canned items, meats, or any other article or item whatsoever. (as added by Ord. #7A-28-014, Sept. 2014)

9-405. Parking space and traffic flow to be designated. Parking spaces and traffic lanes shall be marked as such. It shall be unlawful for any person to park a vehicle in other than a designated parking space and it shall also be unlawful to obstruct areas designated for traffic flow. (as added by Ord. #7A-28-014, Sept. 2014)

9-406. Health regulations. All participants/vendors in the farmers market shall comply with all federal, state and local health rules and regulations. (as added by Ord. #7A-28-014, Sept. 2014)

9-407. Hold harmless and indemnification. All vendors participating in the farmers market shall be individually and severely responsible to the City of Pikeville, Tennessee for any loss, personal injury, deaths, personal damage and/or loss, and/or any other damages, and/or any other damage that may occur as a result of the vendor's negligence or that of its servants, agents, and employees, and all vendors hereby agree to indemnify and save the City of Pikeville harmless from any loss, cost, damages, and any and all other expenses and costs, including but not limited to, attorney fees and court costs, suffered or incurred by the City of Pikeville by reason of the vendor's negligence or that of its servants, agents, and employees; provided that the vendors shall not be responsible or required to indemnify the City of Pikeville, Tennessee for negligence of the City of Pikeville, Tennessee, its servants, agents, and employees. No insurance is provided to participants and vendors in the farmers market and each vendor and participant will need to obtain his/her own liability insurance. (as added by Ord. #7A-28-014, Sept. 2014)

9-408. Sales tax and licenses. Each vendor is responsible for collecting his/her own sales taxes, where it is applicable. Further, each vendor is responsible for obtaining any and all license and permits required by federal, state and local law, where applicable. (as added by Ord. #7A-28-014, Sept. 2014)

9-409. Permit required. (1) Every person who is privileged to occupy and use the farmers market for selling, offering for sale, or exposing for sale the articles that may be sold thereon shall first before going upon the farmers market make an application for a permit at the city hall (municipal building) for the City of Pikeville located at 47 West City Hall in Pikeville, Tennessee, in writing and upon a farmers market application form being completed, the applicant must file the application with the City of Pikeville, with the contents of said application to be subscribed and sworn to by the applicant. Additionally, each applicant shall pay a five dollar ($5.00) application fee prior to permit being issued. The permit shall be carried by the person to whom it has been issued to at all times while the person is present on the farmers market. It shall be unlawful for any person to whom a permit has not been issued to go upon and occupy any space of the farmers market for the purpose of selling thereon.

(2) No holder of a permit shall allow any person other than himself/herself or the persons stated on the application to have or use the permit for the purpose of occupying a space and selling on the farmers market.

(3) It shall be unlawful for any person to make, use, have in his/her possession, or exhibit any false or counterfeit permit.

(4) The making of an application for a permit and the issuance of a permit to any bona fide farmer, grower, horticulturist, or other person under this chapter who is a citizen and resident of the State of Tennessee shall not entitle the holder to use any particular space thereon to such holder of a permit. The provisions of this chapter are designed to prevent the preemption of any particular space by any permittee and to secure sanitary conditions of use and occupation of the farmers market by those to whom the privilege is extended. The requirements as to application for and issuance of permits are designed to keep the use of the farmers market for those only to whom the privilege of use has been extended by the provisions of this chapter. (as added by Ord. #7A-28-014, Sept. 2014)

9-410. Permit expiration; renewal; suspension; or revocation. A permit issued pursuant to this chapter shall be valid for the calendar year in which the permit is issued, with permits expiring each December 31 of every year.

A permit may be suspended or revoked by the Codes Enforcement Officer for the City of Pikeville when the provisions of the chapter have been violated. Upon being notified of an alleged violation of this chapter, the codes enforcement officer shall investigate the complaint. Any person found to have violated the provisions of this chapter shall receive at least a written warning initially, but

may, depending on the severity of the violation, have his/her permit suspended or revoked for a period not to exceed one (1) year. However, in the event an offender has been found to have violated the provisions of this chapter on three (3) or more occasions within any twelve (12) month period, the offender shall have his permit suspended or revoked for a period of one (1) year. Said offender may apply for a permit at the expiration of the one (1) year revocation period. Persons who have had their permit suspended or revoked for violations of this chapter may appeal the decision to the city mayor in writing within fifteen (15) days from the time their privileges were revoked. The city mayor shall investigate the matter and render a decision in writing. Any appeal to the city mayor's decision shall be made to the board of mayor and aldermen and directed to the recorder in writing within thirty (30) days from the date of the city mayor's decision. (as added by Ord. #7A-28-014, Sept. 2014)

9-411. **Cleanup**. All vendors shall clean up their areas at the end of each day. Vendors shall be responsible for the cleanliness of their selling areas. All vendors agree to keep the farmers market free of any trash and debris generated by the market activity. Any vendor found to be in violation of this section may have his/her permit suspended or revoked and shall be responsible for the costs of cleanup incurred by the City of Pikeville. (as added by Ord. #7A-28-014, Sept. 2014)

9-412. **Miscellaneous**. No firearms and alcoholic beverages are permitted at or on the farmers market. (as added by Ord. #7A-28-014, Sept. 2014)

TITLE 10

ANIMAL CONTROL

CHAPTER

CHAPTER 1

IN GENERAL

SECTION

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. (1988 Code, § 3-101)

10-102. Keeping near a residence or business restricted. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand (1,000) feet of any residence, place of business, or public street, as measured in a straight line. (1988 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1988 Code, § 3-103)

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

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1988 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1988 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1988 Code, § 3-106)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (1988 Code, § 3-107)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1988 Code, § 3-108)

CHAPTER 2

DOGS

SECTION

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1988 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1988 Code, § 3-202)

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

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (1988 Code, § 3-203)

10-204. Vicious dogs 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. (1988 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1988 Code, § 3-205)

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

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1988 Code, § 3-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or any other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be humanely destroyed unless legally claimed by the owner within five (5) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar. (1988 Code, § 3-207)

10-208. Destruction of vicious or infected dogs running at large. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.[1] (1988 Code, § 3-208)

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[1]State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

CHAPTER 3

WILDLIFE AND BIRD SANCTUARY

SECTION

10-301. Wildlife and fowl protected; sanctuary established. (1) The entire area embraced within the corporate limits within the Town of Pikeville be, and the same hereby is, designated as a wildlife and bird sanctuary.

(2) It shall be unlawful for any person to willfully or wantonly molest, trap, hunt, shoot, kill or maim any wildlife, wild fowl or bird, or to rob the nest or home of either.

(3) Provided, however, if starling or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to the health or property of the citizens of the Town of Pikeville, in the opinion of the mayor or other proper authority, then such nuisance or menace may be evaded in such manner as is deemed advisable by the mayor or other proper authority. (1988 Code, § 3-301)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. 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. (1988 Code, § 10-202)

11-102. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption. (1988 Code, § 10-203)

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[1]Municipal code references
Animals and fowls: title 10.
Housing and utilities: title 12.
Fireworks and explosives: title 7.
Traffic offenses: title 15.
Streets and sidewalks (non-traffic): title 16.

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.
State law reference
See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1988 Code, § 10-303)

CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-301. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1988 Code, § 10-501)

11-302. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

(a) Blowing horns. The sounding of any horn or 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 persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, 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 town authorities.

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

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

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

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

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

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

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

(a) 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 amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1988 Code, § 10-502)

CHAPTER 4

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-401. 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. (1988 Code, § 10-602)

11-402. 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. (1988 Code, § 10-603)

CHAPTER 5

FIREARMS, WEAPONS AND MISSILES

SECTION

11-501. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a 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. (1988 Code, § 10-701)

11-502. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1988 Code, § 10-702)

11-503. Discharging firearms in town. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1988 Code, § 10-703)

CHAPTER 6

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-601. Trespassing.[1] (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.[2] (1988 Code, § 10-801)

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[1]State law reference

Subsections (1) through (4) of this section were taken substantially from Tennessee Code Annotated, § 39-3-1201 et seq.

[2]Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

11-602. **Malicious mischief**. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1988 Code, § 10-802)

11-603. **Interference with traffic**. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1988 Code, § 10-803)

CHAPTER 7

PUBLIC INDECENCY

SECTION

11-701. Public indecency prohibited. (1) A person commits the offense of public indecency when he or she performs any of the following acts in a place where a person should reasonably expect to be in view of the public:

(a) An actual or simulated act of sexual intercourse or masturbation;

(b) Exposure of the genitals;

(c) A lewd appearance in a state of partial or complete nudity;

(d) A lewd caress or indecent fondling of the body of another person;

(e) A lewd caress or indecent fondling of the sexual organs of any person, including oneself;

(f) Urination or defecation; or

(g) Appears wearing pants or skirts more than three inches (3") below the top of the hips (crest of the ilium) exposing the skin or undergarments.

(2) Fines and penalties. A citation shall be issued to the offender and the person shall be subject to a penalty of not less than twenty-five dollars ($25.00) on the first offense and not more than fifty dollars ($50.00) for each subsequent offense. In addition to the fine, the court may order such person to participate in up to forty (40) hours of court community service activities. Violators shall not be subject to arrest or imprisonment for the violation of this section, however, the municipal court shall have the same authority as the superior court to enforce obedience to its orders, judgments, and sentences. (as added by Ord. #5-12-014, June 2014)

11-702. Defenses. It is a defense under this subchapter if it is determined, after a hearing trial, that the person was exercising rights protected by the federal or state constitution. Any defense under this subsection must be asserted prior to any hearing or trial in the matter. (as added by Ord. #5-12-014, June 2014)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

CHAPTER 1

BUILDING CODE[1]

SECTION

12-101. 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 Code,[2] 1999 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (1988 Code, § 4-101, modified)

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

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

12-102. 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) Permits required. It shall be unlawful for any person, firm, corporation, or association to construct, reconstruct, repair, enlarge, extend, or work upon any building or structure of any character within the Town of Pikeville where the cost of such exceeds the sum of $100.00 without first obtained a permit from the town recorder. Any person, firm, corporation, or association, who fails to make application for and obtain the permit required by this chapter, or any person, who performs any work upon any building or structure in the Town of Pikeville for which a permit has not been obtained as herein provided, shall be guilty of a misdemeanor.

(3) Applications for permits. Any person, firm, corporation, or association desiring to construct, reconstruct, repair, enlarge, extend, or work upon any building or structure, or to contract for the same shall first make application, in writing, to the town recorder for a permit to do such work, and which application shall be on such form as may be prescribed by the town recorder, and which application shall furnish the following information:

(a) The street and lot number or house number of said proposed work.

(b) The size of the lot upon which such work or construction is to be performed.

(c) In the case of new construction, the distance from the front lot line, the side lines and the rear lines, said building or structure is to be placed upon the lot.

(d) The cost of the construction, repair, or improvements to be made estimated as near as reasonably can be done.

(e) The type of construction proposed and the material out of which the building or structure is to be constructed, repaired, or enlarged.

(f) The use to which said building or structure will be put.

(g) The name of the owner of the lot, the contractor who proposed to do the building, and the architect, if any.

(h) Such other information as the town recorder may require.

(i) The town recorder, in case he deems it necessary, may require a plat of the lot showing the dimensions and the location of the building to be constructed.

(j) The application to be submitted in triplicate on such form as provided by the town recorder.

(4) Fees. There shall be paid at the time of the filing of the application for said permit:

(a) Where the valuation does not exceed $100.00, no fee shall be required, unless an inspection is necessary or called for, in which case there shall be a $1.50 fee.

(b) For a valuation over $100.00 up to and including $15,000.00 the fee shall be $2.00 per thousand or fraction thereof.

(c) For a valuation over $15,000.00 up to and including $100,000.00, the fee shall be $30.00 for the first fifteen thousand plus $1.00 for each additional thousand or fraction thereof.

(d) For a valuation over $100,000.00 up and including $500,000.00, the fee shall be $115.00 for the first one hundred thousand plus $0.50 for each additional thousand or fraction thereof.

(e) For a valuation over $500,000.00 up to and including $100,000.00 the fee shall be $315.00 for the first five hundred thousand plus $0.25 for each additional thousand or fraction thereof.

(f) For a valuation over $1,000,000.00, the fee shall be $440.00 for the first million plus $0.15 for each additional thousand or fraction thereof. However, no fees shall be required for the demolition of any building or structure within the town.

(5) Investigation, approval, and disapproval of applications. Upon the filing of the application herein required, the town recorder shall make such investigation as deemed by him necessary, and shall, within then (10) days after the filing of the application, act upon the same, either by granting the permit or by denying the same. (1988 Code, § 4-102)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-103, modified)

12-104. 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. (1988 Code, § 4-104)

CHAPTER 2

PLUMBING CODE[1]

SECTION

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the Standard Plumbing Code,[2] 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1988 Code, § 4-201, modified)

12-202. 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) Schedule of permit fees. The schedule of fees contained in "Appendix H" of the Standard Plumbing Code is amended to conform with the fee schedule herein adopted, to wit:

PLUMBING PERMIT FEE SCHEDULE

Minimum fee (each permit)	$5.00

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[1]Municipal code references
Cross connections: title 18.
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

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

Each plumbing fixture, floor drain or trap	1.50
Each fixture over 10	1.00
Sewer connection	5.00
Each house sewer having to be repaired or replaced	5.00
Water heater	2.50
For repair or alteration of drainage or vent piping	5.00
For installation, alteration or repair of water piping and/or water treating equipment	5.00
Water service connection (meter to building)	5.00
Reinspection fee	5.00

(1988 Code, § 4-202)

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1988 Code, § 4-203, modified)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1988 Code, § 4-204)

CHAPTER 3

ELECTRICAL CODE[1]

SECTION

12-301. 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 electritown for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,[2] 1999 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. (1988 Code, § 4-301, modified)

12-302. 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. (1988 Code, § 4-302, modified)

12-303. Permit required for doing electrical work. No electrical work shall be done within this town until a permit therefor has been issued by the town. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1988 Code, § 4-303)

12-304. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electritown 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. (1988 Code, § 4-304)

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[1]Municipal code references
Fire protection, fireworks and explosives: title 7.

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

12-305. Enforcement. The electrical inspector shall be such person as the board of mayor and aldermen shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1988 Code, § 4-305)

12-306. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143, for electrical inspections by deputy inspectors of the state fire marshal. (1988 Code, § 4-306)

CHAPTER 4

GAS CODE[1]

SECTION

12-401. 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. (1988 Code, § 4-401)

12-402. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall

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[1]Municipal code reference
Gas system administration: title 19, chapter 2.

conform to the requirements of this chapter and to the Standard Gas Code,[1] 1999 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the town recorder for the use and inspection of the public. (1988 Code, § 4-402, modified)

12-403. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1988 Code, § 4-403)

12-404. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the town recorder a good and sufficient bond in the penal sum of $10,000, with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the town recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

(2) Upon approval of said bond, the person desiring to do such work shall secure from the town recorder a 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. (1988 Code, § 4-404)

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

12-405. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen. (1988 Code, § 4-405)

12-406. Powers and duties of inspector. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

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

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1988 Code, § 4-406)

12-407. Permits. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the town recorder; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

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

(3) Except when work in a public street or other public way is involved the gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (1988 Code, § 4-407)

12-408. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1988 Code, § 4-408)

12-409. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1988 Code, § 4-409)

12-410. Fees. The permit fee schedule shall be as follows:

(1) For issuing each permit, a fee of $5.00 will be charged;

(2) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspection) shall be $2.50 for one to four outlets, inclusive, and $1.00 for each additional outlet;

(3) The fees for inspecting conversion burners, floor furnaces, incinerators, boilers, or central heating or air conditioning units shall be $2.50 for one unit and $1.00 for each additional unit;

(4) The fee for inspecting vented wall furnaces and water heaters shall be $2.50 for one unit and $1.00 for each additional unit;

(5) If a reinspection is required, an additional fee of $5.00 will be charged.

(6) If any person commences any work before obtaining the necessary permit and inspection, fees shall be doubled; and

(7) Any and all fees shall be paid by the person to whom the permit is issued. (1988 Code, § 4-410)

12-411. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a

misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1988 Code, § 4-411)

CHAPTER 5

HOUSING CODE

SECTION

12-501. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,[1] 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (1988 Code, § 4-501, modified)

12-502. 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. (1988 Code, § 4-502)

12-503. 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. (1988 Code, § 4-503, modified)

12-504. 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. (1988 Code, § 4-504)

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

CHAPTER 6

MODEL ENERGY CODE[1]

SECTION

12-601. Model energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Model Energy Code,[2] 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

12-602. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Pikeville. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

12-603. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has

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[1]State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

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

[2]Copies of this code (and any amendments) may be purchased from The Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041.

been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-604. Violation and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars ($500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust or gases to be detrimental to or to endanger the health, comfort and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1988 Code, § 8-101, as replaced by Ord. #4-13-O09, Aug. 2009)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1988 Code, § 8-102, as replaced by Ord. #4-13-O09, Aug. 2009)

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.
Wastewater regulations: title 18, chapter 2.

on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder to cut such vegetation when it has reached a height of over one foot (1'). (1988 Code, § 8-103, as replaced by Ord. #4-13-O09, Aug. 2009)

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

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

(a) A brief statement that the owner is in violation of § 13-104 of the Pikeville Municipal Code, which has been enacted under the authority of under Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean up;

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

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Clean up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of commissioners to enforce the provisions of this

section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Bledsoe County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to the property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean up of owner occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for the remediation equal or exceed five hundred dollars ($500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of commissioners under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceeding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1988 Code, § 8-104, as replaced by Ord. #4-13-O09, Aug. 2009)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city recorder and dispose of such animal in such a manner as the city recorder shall direct. (1988 Code, § 8-105, as replaced by Ord. #4-13-O09, Aug. 2009)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in 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 in the vicinity. (as added by Ord. #4-13-O09, Aug. 2009)

13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #4-13-O09, Aug. 2009)

CHAPTER 2

SLUM CLEARANCE[1]

SECTION

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 city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (1988 Code, § 8-501, as replaced by Ord. #4-13-O09, Aug. 2009)

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

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

(3) "Municipality" shall mean the City of Pikeville, Tennessee, and the areas encompassed within the existing city limits or as hereafter annexed.

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

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[1]State law reference
Tennessee Code Annotated, title 13, chapter 21.

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

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #4-13-O09, Aug. 2009)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer" to be with the chief of police of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the chief of police. (as added by Ord. #4-13-O09, Aug. 2009)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it happens to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #4-13-O09, Aug. 2009)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation

or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #4-13-O09, Aug. 2009)

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 thereof, the public officer may cause such structure to be repaired, altered, or improved, to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #4-13-O09, Aug. 2009)

13-207. When the public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #4-13-O09, Aug. 2009)

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, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and

shall be subject to the same penalty and interest as delinquent property taxes as set forth in Tennessee Code Annotated, §§ 67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer 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 Bledsoe County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be constructed to impair or limit in any way the power of the City of Pikeville to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #4-13-O09, Aug. 2009)

13-209. Basis for finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Pikeville. 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; disrepair; structural defects, or uncleanliness. (as added by Ord. #4-13-O09, Aug. 2009)

13-210. Service of complaint or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Bledsoe County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #4-13-O09, Aug. 2009)

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 bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the order may, upon 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 persons shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action take pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #4-13-O09, Aug. 2009)

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

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

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #4-13-O09, Aug. 2009)

13-213. Powers conferred are supplemental. This chapter shall not be constructed to abrogate the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #4-13-O09, Aug. 2009)

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to

the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #4-13-O09, Aug. 2009)

CHAPTER 3

JUNKYARDS[1]

SECTION

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

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

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

(4) "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 useable product.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which would screen any deposit of junk so that the

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[1]Municipal code reference
Junked motor vehicles: title 13, chapter 4.
Refuse and trash disposal: title 17.

junk is not visible from the highways and streets of the city. (1988 Code, § 4-601, as replaced by Ord. #4-13-O09, Aug. 2009)

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 in compliance with this chapter. (1988 Code, § 4-602, as replaced by Ord. #4-13-O09, Aug. 2009)

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

(1) 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.

(d) Fences must be aesthetically pleasing and approved by the public officer prior to construction.

(e) All fences must be a minimum of ten feet (10') high from ground level to the top of fence.

(2) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (1988 Code, § 4-603, as replaced by Ord. #4-13-O09, Aug. 2009)

13-304. Requirements for effective screening. Screening may be accomplished using natural objects, landscape plantings, fences and other appropriate materials used singly or in combination as approved by the city. The effect of the completed screening must be the concealment of the junkyard from the 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 gates, capable of concealing the junk when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

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

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (1988 Code, § 4-604, as replaced by Ord. #4-13-O09, Aug. 2009)

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city. If not replaced within sixty (60) days the city may replace said screening and require payment upon demand. (1988 Code, § 4-605, as replaced by Ord. #4-13-O09, Aug. 2009)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (1988 Code, § 4-606, as replaced by Ord. #4-13-O09, Aug. 2009)

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

(1) The junkyard must continue to be lawfully maintained.

(2) There must be existing property rights in the junk or junkyard.

(3) Abandoned junkyards shall no longer be lawful.

(4) The location of the junkyard may not be changed for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.

(5) The junkyard may not be extended or enlarged. (1988 Code, § 4-607, as replaced by Ord. #4-13-O09, Aug. 2009)

13-308. Permits and fees. It shall be unlawful for any junkyard located within the city to operate without a "junkyard control permit" issued by the city.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's fiscal year begins on July 1 and ends on June 30 the year next following.

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

(3) All applications for an original or renewal permit shall be made on a form prescribed by the city.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued. (1988 Code, § 4-608, as replaced by Ord. #4-13-O09, Aug. 2009)

13-309. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (1988 Code, § 4-609, as replaced by Ord. #4-13-O09, Aug. 2009)

13-310. [Deleted.] (1988 Code, § 4-610, as deleted by Ord. #4-13-O09, Aug. 2009)

13-311. [Deleted.] (1988 Code, § 4-611, as deleted by Ord. #4-13-O09, Aug. 2009)

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

13-401. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) (a) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one (1) or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(ii) Missing or partially or totally disassembled essential part or parts of the vehicles drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including but.not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality, and anangement that a driver cannot be properly seated in the vehicle.

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on a block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(b) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

(2) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(3) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(4) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which the vehicles ordinarily use for travel. (1988 Code, § 4-701, as replaced by Ord. #4-13-O09, Aug. 2009)

13-402. <u>Violations of a civil offense</u>. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk or abandoned vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any public property, a junk or abandoned vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, or maintain on private property a junk or abandoned vehicle. (1988 Code, § 4-702, as replaced by Ord. #4-13-O09, Aug. 2009)

13-403. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business, engaged in wrecking, junking or repairing vehicles. However, this should not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city. (1988 Code, § 4-703, as replaced by Ord. #4-13-O09, Aug. 2009)

13-404. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked or abandoned vehicles on private property. If after such investigation the building inspector finds a junked or abandoned vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the city judge to issue a summons; or

(2) Request a police officer to witness the violation.

The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101, et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. In addition, pursuant to Tennessee Code Annotated, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. (1988 Code, § 4-704, as replaced by Ord. #4-13-O09, Aug. 2009)

13-405. Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of fifty dollars ($50.00) plus court costs for each separate violation of this chapter. Each day the violation of this continues shall

be considered a separate violation. (1988 Code, § 4-705, as replaced by Ord. #4-13-O09, Aug. 2009)

1**3-406. [Deleted.]** (1988 Code, § 4-706, as deleted by Ord. #4-13-O09, Aug. 2009)

13-407. [Deleted.] (1988 Code, § 4-707, as deleted by Ord. #4-13-O09, Aug. 2009)

13-408. [Deleted.] (1988 Code, § 4-708, as deleted by Ord. #4-13-O09, Aug. 2009)

13-409. [Deleted.] (1988 Code, § 4-709, as deleted by Ord. #4-13-O09, Aug. 2009)

13-410. [Deleted.] (1988 Code, § 4-710, as deleted by Ord. #4-13-O09, Aug. 2009)

13-411. [Deleted.] (1988 Code, § 4-711, as deleted by Ord. #4-13-O09, Aug. 2009)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

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 five (5) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other three (3) 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 three (3) members appointed by the mayor shall be for five (5) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) 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. (1988 Code, § 11-101, amended by Ord. #2-13-090, Feb. 1990, and replaced by Ord. #10-14-014, Dec. 2014)

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. (1988 Code, § 11-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions

of the state law relating to regional planning commissions. (1988 Code, § 11-103)

CHAPTER 2

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

14-201. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Private Act Charter Chapter 1939, Ch. 574, P. 1826 delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Pikeville, Tennessee, Mayor and its Legislative Body do ordain as follows:

(2) Findings of fact. (a) The City of Pikeville, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (C.F.R.), ch. 1, section 60.3.

(b) Areas of the City of Pikeville, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area;

(h) To maintain eligibility for participation in the NFIP. (1988 Code, § 11-201, as replaced by Ord. #6-29-O09, April 2010, and Ord. #6-29-O10, Aug. 2010)

14-202. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building" see "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(14) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures" see "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "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.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "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.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Pikeville, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement

area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(44) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(46) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(47) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "100-year flood" see "base flood."

(49) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory 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.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" is the land in the 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, AD, AH, A1-30, AE or A99.

(55) "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.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as

designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure," for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial improvement; or

(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(a) 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

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this ordinance.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's 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.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various

magnitudes and frequencies in the floodplains of riverine areas. (1988 Code, § 11-202, as replaced by Ord. #6-29-O09, April 2010, and Ord. #6-29-O10, Aug. 2010)

14-203. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Pikeville, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Pikeville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community 470011 Panel Numbers 0139, 0143, 0252, 0254, 0255, and 0256, dated November 26, 2010 along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Pikeville, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided

by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Pikeville, Tennessee from taking such other lawful actions to prevent or remedy any violation. (1988 Code, § 11-203, as replaced by Ord. #6-29-O09, April 2010, and Ord. #6-29-O10, Aug. 2010)

14-204. Administration. (1) Designation of ordinance administrator. The city recorder is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-205(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion ofthe lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-204(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and

substantially improved buildings have been floodproofed, in accordance with § 14-204(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-204(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between, a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Pikeville, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (1988 Code, § 11-204, as replaced by Ord. #6-29-O09, April 2010, and Ord. #6-29-O10, Aug. 2010)

14-205. <u>Provisions for flood hazard reduction</u>. (1) <u>General standards</u>. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-205(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-205(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls

shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-202). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-202). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-204(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow

for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-205(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-202).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-205(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-205(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-203(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be

permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Pikeville and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-205(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-203(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-205(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-203(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-205(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres,

whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-202). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-204(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-205(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not inorease the water surface elevation of the base flood more than one foot (1') at any point within the City of Pikeville, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-205(1) and (2). Within approximate A Zones, require that those subsections of § 14-205(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-203(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-205(1) and (2), apply:

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate

automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-205(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-204(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-203(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-204 and 14-205 shall apply.

(8) Standards for unmapped streams. Located within the City of Pikeville, Tennessee, are umnapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-204 and 14-205. (1988 Code, § 11-205, as replaced by Ord. #6-29-O09, April 2010, and Ord. #6-29-O10, Aug. 2010)

14-206. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years, respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than ten (10) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Pikeville, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the

granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-206(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #6-29-O09, April 2010, and replaced by Ord. #6-29-O10, Aug. 2010)

14-207. 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 City of Pikeville, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

(3) Effective date. The ordinance comprising this chapter shall become effective immediately after its passage, in accordance with the Charter of the City of Pikeville, Tennessee, and the public welfare demanding it. (as added by Ord. #6-29-O09, April 2010, and replaced by Ord. #6-29-O10, Aug. 2010)

CHAPTER 3

ZONING ORDINANCE

SECTION

14-301. Land use to be governed by zoning ordinance.[1] Land use within the City of Pikeville shall be governed by Ordinance Number 5-14-018 titled "Zoning Ordinance, City of Pikeville, Tennessee," and any amendments thereto. (as added by Ord. #9B-25-O06, Oct. 2006, and replaced by Ord. #2-13-012, July 2012, and Ord. #5-14-018, June 2018 ***Ch3_6-29-18***)

14-302.–-14-308. Deleted. (as added by Ord. #9B-25-O06, Oct. 2006, and replaced by Ord. #2-13-012, July 2012 and Ord. #5-14-018, June 2018 ***Ch3_6-29-18***)

[1]The zoning ordinance for the City of Pikeville, and all amendments thereto, are published as separate documents and are of record in the office of the city recorder.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS[2]

SECTION

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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

[2]State law references
Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

15-101. 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. (1988 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1988 Code, § 9-102)

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. (1988 Code, § 9-103)

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. (1988 Code, § 9-105)

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. (1988 Code, § 9-106)

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. (1988 Code, § 9-107)

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. (1988 Code, § 9-108)

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. (1988 Code, § 9-109)

15-109. General requirements for traffic-control signs, etc. Pursuant to Tennessee Code Annotated, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways,[2] and shall so far as practicable, be uniform as to type and location

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[1]Municipal code references

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

[2]For the latest revision of the Tennessee Manual on Uniform Traffic

(continued...)

throughout the town. This section shall not be construed as being mandatory but is merely directive. (1988 Code, § 9-110, modified)

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. (1988 Code, § 9-111)

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. (1988 Code, § 9-112)

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. (1988 Code, § 9-113)

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. (1988 Code, § 9-114)

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. (1988 Code, § 9-115)

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

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(...continued)
Control Devices for Streets and Highways, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, et seq.

lawful duties nor to persons riding in the load-carrying space of trucks. (1988 Code, § 9-116)

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. (1988 Code, § 9-117)

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 (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1988 Code, § 9-118)

15-118. 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. (1988 Code, § 9-119)

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." (1988 Code, § 9-120)

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. (1988 Code, § 9-121)

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 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 s 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. (1988 Code, § 9-122)

15-122. Operation of vehicles by minors. (1) Definitions.

(a) "Minor" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a minor who has been emancipated by marriage or otherwise.

(b) "Adult" shall mean any person eighteen years of age or older.

(c) "Custody" means the control of the actual, physical care of the minor, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the minor. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the minor's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Juvenile" shall mean any person defined as such in Tennessee Code Annotated, § 37-1-101 et seq.

(e) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(f) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a minor, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a minor, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Pikeville unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a minor to permit any such minor to drive a motor vehicle upon the streets,

highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town. (1988 Code, § 9-123)

15-123. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) 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 the Tennessee Code Annotated, chapter12, title 55, has been paid or filed with the commissioner, or has qualified a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil defense. It is a civil offence to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars ($50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with its ordinance 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 responsibility may be dismissed.

(6) This section shall take effect immediately after the passage of the ordinance comprising it, the welfare requiring it. (as added by Ord. #6C-27-O02, July 2002)

15-124. Adoption of state traffic statutes and regulations. (1) 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 City of Pikeville also. This provision shall not apply to any offenses in which the state courts have exclusive jurisdiction.

(2) This section shall take effect immediately after passage of the ordinance comprising it, the welfare requiring it. (as added by Ord. #6D-27-O02, July 2002)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1988 Code, § 9-201)

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. (1988 Code, § 9-202)

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[1]Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1988 Code, § 9-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1988 Code, § 9-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general. 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. (1988 Code, § 9-301)

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. (1988 Code, § 9-302)

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 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. (1988 Code § 9-303)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.[1] (1988 Code, § 9-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1988 Code, § 9-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1988 Code, § 9-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1988 Code, § 9-404)

15-405. U-turns. U-turns are prohibited. (1988 Code, § 9-405)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. 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. (1988 Code, § 9-501)

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. (1988 Code, § 9-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1988 Code, § 9-503)

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[1]Municipal 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. (1988 Code, § 9-504)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1988 Code, § 9-505)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1988 Code, § 9-506)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that 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 will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1988 Code, § 9-507)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the 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. (1988 Code, § 9-508)

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the 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. (1988 Code, § 9-509)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. (1988 Code, § 9-510)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this 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. (1988 Code, § 9-601)

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. (1988 Code, § 9-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1988 Code, § 9-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or 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). (1988 Code, § 9-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1988 Code, § 9-605)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1988 Code, § 9-606)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the 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. (1988 Code, § 9-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1988 Code, § 9-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. (1988 Code, § 9-703)

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[1]Municipal code references
Citation in lieu of arrest in non-traffic cases: § 6-105.
Summonses in lieu of arrest: § 6-106.
State law reference
Tennessee Code Annotated, § 7-63-101, et seq.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, 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. (1988 Code, § 9-704)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1988 Code, § 9-705)

15-706. Deposit of drivers' license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of an 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 person chauffeur's or operator's license as herein provided, shall issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the 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. (1988 Code, § 9-706, modified)

15-707. Violation and penalty. Any violation of this title shall be a civil offense punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

CHAPTER 8

IMPOUNDED AND SEIZED VEHICLES

SECTION

15-801. Impoundment lot designated. The town may from time to time by resolution designate an impoundment lot upon which motor vehicles seized or impounded by the town, or seized and impounded by any other agency of the county, state or federal government and placed in the possession of the town for storage, are kept and stored. (Ord. #7B-13-098, Sept. 1998)

15-802. Rules and regulations. The board of mayor and aldermen shall designate an office or employee of the town to operate the impoundment lot. The officer or employee so designated shall have the authority to establish rules and regulations governing the storage of motor vehicles in the impoundment lot, and the retrieval of such vehicles from the lot. Such rules and regulations shall be consistent with the laws of the State of Tennessee and the United States, including the law governing the right to, and proof of the right to, possession of motor vehicles. (Ord. #7B-13-098, Sept. 1998)

15-803. Storage fees. The officer or employee designated to operate the impoundment lot shall charge a storage fee of ten dollars ($10.00) a day for each motor vehicle stored in the impoundment lot. Any part of a day shall count as a whole day. The person, firm, or corporation to whom a motor vehicle is released shall pay the storage fee before the vehicle is released, and no vehicle shall be released until such fee is paid. (Ord. #7B-13-098, Sept. 1998)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS[2]

SECTION

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1988 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1988 Code, § 12-102)

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

[2]The official street adoption policy is of record in the recorder's office.

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. (1988 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.[1] (1988 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across 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. (1988 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1988 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1988 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1988 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1988 Code, § 12-109)

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[1]Municipal 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. (1988 Code, § 12-110)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1988 Code, § 12-111, modified)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as 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. (1988 Code, § 12-112)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1988 Code, § 12-113)

CHAPTER 2

EXCAVATIONS[1]

SECTION

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. (1988 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the town 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 to the work to be done. Such application shall be rejected or

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[1]State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

approved by the town recorder within twenty-four (24) hours of its filing. (1988 Code, § 12-202)

16-203. Fee. The fee for such permits shall be twenty dollars ($20.00). (1988 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the town recorder a cash deposit. The deposit shall be in the sum of five hundred dollars ($500.00) if no pavement is involved or one thousand dollars ($1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the town 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 town recorder a surety bond in such form and amount as the town recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1988 Code, § 12-204)

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1988 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this 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 town 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. (1988 Code, § 12-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the town 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. (1988 Code, § 12-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until 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 town recorder. (1988 Code, § 12-208)

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. (1988 Code, § 12-209)

CHAPTER 3

STREET STANDARDS AND SPECIFICATIONS

SECTION

16-301. Acceptance of streets. Prior to the acceptance of any public road into the town system, a written request shall be made to the board of mayor and aldermen the party wishing to dedicate such road and the road shall have been reviewed by the Road Commissioner of Pikeville and shall have meet the town's design standards.

The road commissioner shall be responsible for taking the request to the board of mayor and aldermen who shall determine which streets shall be officially accepted as public roads. The board of mayor and aldermen shall have the authority to reject acceptance if just cause can be shown, or if it does not meet the minimum design standards of this chapter. (1988 Code, § 12-301)

16-302. Minimum design standards. (1) Right-of-way widths. The right-of-way width shall be the distance across a road from property line to property line. Minimum road right-of-way widths shall be 50 feet.

(2) Road surface widths. Road surfaces widths shall be 22 feet with a three foot dirt shoulder on each side of the road. There shall be a drainage ditch on each side of the road with a slope of one inch every two feet for a minimum width of three feet.

(3) Road base specifications. The base shall consist of crushed stone, Grade D Class B or number 19 or "33-c", compacted to six (6) inches, in two equal layers.

(4) Road surface specifications. The surface shall be paved using double bituminous surface treatment (double shot).

The first application (prime cost) of bituminous material should be applied at a uniform rate of between 0.3 and 0.4 gallons per square yard.

Immediately after the application of bituminous material it shall be covered uniformly with size number 6 mineral aggregate - - the aggregate shall be spread at a rate of between thirty (30) and forty (40) pounds per square yard.

The second application of bituminous material shall be applied at a uniform rate between 0.30 and 0.35 gallons per square yard. Mineral aggregate, size number 7 shall then be spread at a rate of twenty (20) to twenty-five (25) pounds per square yard.

(5) Continuation of existing roads. Existing roads shall be continued at the same or greater width, but in no case less than the required width.

(6) Road connections. Where proposed roads are to adjoin existing roads, the developer must make the connection at his expense and meet all road design requirements.

(7) Storm drainage. An adequate drainage system including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water.

All storm drainage contained in pipes or culverts under the roadway shall have end walls, or rip-rap with a concrete apron wall where necessary to prevent erosion.

Cross drains should be provided to accommodate all natural water flow and shall be of sufficient length to permit a full width roadway and the required slopes. The size and location of cross drains shall be determined by the U.S. Soil and Water Conservation Service, but in no case shall they be less than twelve (12) inches in diameter.

(8) Installation of utilities. After grading is completed and approved and before any road surface is applied, all of the required underground work -- water mains, sewer lines, gas mains, etc., and all service connections shall be installed completely and approved. (1988 Code, § 12-302)

16-303. Inspection. All new streets need to have periodic inspection by the Road Commissioner of the Town of Pikeville or the person designated by the town, during construction to insure that the above-mentioned minimum standards have been met. Failure of the developer to obtain such inspections will constitute grounds for non-acceptance of the street by the town. (1988 Code, § 12-303)

16-304. Guarantee in lieu of completed improvements. No street shall be accepted until improvements listed shall have been constructed in a satisfactory manner and approved as specified in § 16-302 of this chapter or in lieu of such prior construction, the town may accept a security bond or a certified check in an amount equal to the estimated cost of installation of the required improvements whereby improvements may be made without cost to the town in the event of default by the petitioner. (1988 Code, § 12-304)

CHAPTER 4

HORSEBACK RIDING AND HORSE DRAWN VEHICLES

SECTION

16-401. Regulations. (1) (a) It shall be unlawful for anyone to ride upon a horse or horse-drawn vehicle at any time (except as enumerated in 1(b) of this chapter) in the town limits of Pikeville, Tennessee, anywhere on Highway 127 between the intersection of Grove Street and 127 and the intersection of Sequatchie Road and 127.

(b) The above listed absolute prohibition will not apply from one-half hour after sunrise to one-half hour before sunset on the Fourth of July, Labor Day, Christmas Day, and on any day any organization is having a parade or horse show.

(2) It shall be unlawful for anyone to ride upon or be pulled in a vehicle by a horse or horses within the corporate boundaries of Pikeville, Tennessee, outside the area described in 1(a) of this chapter, from one-half (½) hour before sunset to one-half (½) hour after sunrise and at all other times when there is not sufficient light to render clearly visible any horse or vehicle pulled by a horse on the streets at a distance of three hundred (300) feet.

(3) It shall be unlawful for any person to ride upon a vehicle pulled by a horse within any portion of the Town of Pikeville not included within the boundaries described in 1(a) of this chapter from one-half (½) hour before sunset to one-half (½) hour after sunrise and at all other times when there is not sufficient light to render such vehicle clearly visible from a distance of three hundred (300) feet except if there is attached to such vehicle red reflectors which shall be clearly visible for a distance of three hundred (300) feet, such red reflectors to be situated so as to render them visible from the front, rear, and sides of such vehicle.

(4) It shall be unlawful for anyone to ride a horse or vehicle pulled by a horse upon any sidewalk within the corporate boundaries of Pikeville, Tennessee, at any time.

(5) It shall be unlawful to allow livestock to run loose within the boundaries of the Town of Pikeville or to be herded upon public streets within the corporate boundaries of the Town of Pikeville, Tennessee, at any time.

(6) In accordance with Tennessee Code Annotated, § 55-8-178, no person shall wilfully, by noise, gesture, or by other means, on or near the public roads, disturb, or frighten the driver or rider or the animals ridden or drawing vehicles thereon.

(7) The punishment of every person violating any of the provisions of this chapter, intentionally or through carelessness, shall be a fine not less than

ten dollars ($10.00) nor more than fifty dollars ($50.00) and/or imprisonment not longer than thirty (30) days.

(8) Definitions:

(a) "Horse" shall mean any member of the horse family, including ponies, mules, and donkeys.

(b) "Livestock" shall include, but not be limited to, horses, mules, donkeys, cows, chickens, pigs, and goats. (1988 Code, §§ 12-401 and 12-402, as amended by Ord. #05-10-88, _____)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

CHAPTER 1

REFUSE

SECTION

17-101. Definitions. (1) "Refuse" means solid waste.

(2) "Solid Waste" is unwanted or discarded waste materials in a solid or semi solid state, including but not limited to garbage, ashes, street refuse, rubbish, dead animals, animal and agricultural wastes, yard wastes, appliances, furniture, special wastes, industrial wastes, and demolition and construction wastes, excluding "bulk rubbish."

(3) "Bulk rubbish" means wooden and cardboard boxes, crates, appliances, furniture, bedding, and other refuse items which by their size and shape cannot be readily placed in town approved containers.

(4) "Construction waste" means materials from construction, demolition, remodeling, construction-site preparation, including but not limited to rocks, bricks, dirt, debris, fill, plaster, guttering, and all types of scrap materials.

(5) "Commercial solid waste" means solid waste resulting from the operation of any commercial, industrial, institutional or agricultural, institutional or agricultural establishment, office or professional building, shopping center, multiple business complex, commercial housing facility, church, club or other similar organization.

(6) "Commercial establishment" is any business, industrial, institutional or agricultural establishment, office or professional building, shopping center, multiple business complex, commercial housing facility, church, hospital, club or other similar organization.

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[1]Municipal code reference
Property maintenance regulations: title 13.

(7) "Commercial housing facility" is a structure or grouping of structures, apartment complex, or mobile home park which contains more than four (4) dwelling units.

(8) "Garbage" means all household wastes, including but not limited to food waste, bottles, wastepaper, tin cans, clothing, small mechanical parts, small dead animals, and rubbish, excluding tree limbs, shrubbery trimmings, leaves, construction waste, human or animal excreta of fecal matter, large dead animals, large mechanical parts, and "bulk rubbish."

(9) "Yard wastes" means grass clippings, leaves, tree and shrubbery trimmings, and other related yard waste materials.

(10) "Residential garbage" means garbage resulting from the operation and maintenance of dwelling units, excluding commercial housing facilities.

(11) "Residential housing facility" is a single structure containing four (4) dwelling units or less and not operated as a part of a commercial housing facility. (Ord. #7-26-88, July 1988)

17-102. Administration. (1) The utilities supervisor or his designee shall have the authority to make and modify regulations as necessary concerning days of collection and such other matters pertaining to the collection, transporting and disposal of solid waste.

(2) The board of mayor and aldermen may levy charges for the collection, transportation and disposal of any form of solid waste.

(3) The utilities supervisor or his designee shall be responsible for the enforcement of these regulations. (Ord. #7-26-88, July 1988)

17-103. Regulations governing residential service. (1) Collection procedures; general regulations. (a) "Residential garbage" intended for collection by the town shall be placed in a plastic bag or a container no larger than 32 gallons in size. Frequency of collection for residential housing facilities is three (3) times per week.

(b) On the scheduled day of collection all plastic bags and containers must be placed at the edge of the street, curb or other designated location approved for pick up. Containers shall be place in such a location and manner as to be readily accessible with town collection equipment. Containers must not be placed in a location for pick up so as to interfere with overhead power lines or tree branches, parked cars, vehicular traffic, or in any other way that would constitute a public hazard or nuisance.

(c) Containers shall be placed for collection no earlier than 7:00 P.M. on the day before collection and no later than 7:00 A.M. on the day of collection. Plastic bags and containers are not permitted to remain at the curbside collection point later than 7:00 P.M. on the day of collection.

(d) Leaving containers at curbside except during the period specified for collection, or not otherwise secured, constitutes neglect by the occupant/property owner.

(2) Yard waste, bulk rubbish, and other refuse. (a) Placement of brush for collection. All brush (tree limbs, shrubbery and hedge trimmings, etc.) must be placed at the edge of a street or serviceable alley easily accessible with town collection equipment. No item of yard waste placed out for disposal shall be placed on top of water/gas meters or valves, piled against utility poles, guy wires, fences or structures, or any item which could be damaged by collection equipment.

(b) Piling of brush for collection. All brush shall be neatly stacked in an unscattered manner. Small trimmings should be stacked on top of larger ones with butt ends pointed in the same direction. Brush collections shall not be made where they are loosely scattered.

(c) Separation of refuse. No items of refuse may be mixed with brush trimmings. Mixing wire, metal, lumber, brick, rock, dirt or similar items with brush trimmings is prohibited by landfill regulations and collection shall be limited to separated items. Mixing leaves and grass clippings with other brush is also prohibited.

(d) Length and size of brush. Tree trunks, stumps, and limbs larger than four (4) inches, as measured across the diameter of the butt end, shall not be collected by the town. All tree limbs longer than twelve (12) feet in length must be cut in half and stacked as required.

(e) Grass clippings and leaves. All leaves and grass clippings collected by the town shall be placed in plastic bags or other disposable containers.

(3) Prohibited substances and practices. (a) The following substances are hereby prohibited and shall not be deposited in approved containers serviced by the town garbage collection equipment:

(i) Flammable liquids, solids or gases, such as gasoline, benzine, alcohol or other similar substances.

(ii) Any material that could be hazardous or injurious to town employees or which could cause damage to town equipment.

(iii) "Construction waste."

(iv) Hot materials such as ashes, cinders, etc.

(v) Human or animal waste, unless it is placed and secured in a plastic bag or suitable paper bag.

(b) No person, other than the occupant/user, may move, remove, upset, scatter, tamper with, use, carry away, deface, mutilate, destroy, damage or interfere with the garbage container.

(c) Wet kitchen waste shall not be placed in a container unless it is secured in a plastic bag before doing so.

(4) Premises to be kept clean. It shall be unlawful for any person or persons owning, leasing, occupying or having control of property within the

corporate limits, regardless of whether such property is vacant or contains structures thereon, to permit the accumulation of garbage, refuse, hazardous waste, or other desirable materials thereon. It is the responsibility of the individual(s) having control of residential housing facilities, to maintain the container(s) and the surrounding area in a clean, neat and sanitary condition at all times.

(5) Refuse generated through private enterprise. The Town of Pikeville shall not be responsible for the collection and disposal of construction waste, bulk rubbish, brush or any other forms of solid waste generated or produced by contractors, tree trimmers, or persons doing work for profit or personal gain, nor will any such collection of refuse be made from lot or land clearing projects including remodeling or alterations of homes or businesses or such other private projects or improvements.

(6) Bulk rubbish (junk) service. Except during a special town/county-wide spring cleanup campaign, bulk rubbish service will be performed on a convenience of service basis. This service shall be initiated by calling the public works department. A log book of requests for bulk rubbish pick up will be maintained in the public works office. When crews can be made available for this service the log book will be referred to and collections will be made on a first-called, first-served basis. Bulk rubbish shall not be placed at the street for collection until the customer is notified when collection will be made.

(7) Self-help program. The utilities supervisor or his designee shall have the authority to establish a reasonable self-help program for residents who have unusual amounts of refuse, or unusual circumstances which would prevent them from hauling or disposing of refuse themselves. (Ord. #7-26-88, July 1988)

17-104. Regulations governing commercial service.

(1) "Commercial solid waste" intended for collection by the town shall be placed in a town approved container. After the date of adoption of these regulations, the owner or developer of all "commercial establishments" including "commercial housing facilities" within the Town of Pikeville shall at their expense supply commercial waste containers suitable for handling the volume and type of waste generated. The container size and type shall be determined by the utilities supervisor of his designee.

(2) Commercial containers may be jointly used by two or more commercial establishments when it is determined to be in the cost effective interest of the town.

(3) The town will service commercial containers as needed but not to exceed five (5) times per week. The board of mayor and aldermen shall establish rates governing refuse collection services for commercial accounts.

(4) Containers shall at all times be kept in a place easily accessible to town equipment. No service shall be given those establishments permitting objects, obstructions, or vehicles to hinder in any way whatsoever the servicing of the containers.

(5) The utilities supervisor or his designee may establish a special collection district based on the density of commercial facilities, such as the downtown area, and provide a unified service for said district. The utilities supervisor or his designee shall submit district boundaries to the board of mayor and aldermen for approval.

(6) The owner/user of all commercial containers shall be responsible for the sanitary maintenance, structural maintenance and the replacement of the containers.

(7) The utilities supervisor or his designee may, based on high volume-high density of solid waste generated, approve a container/system that would require special handling by other than town owned equipment, at owner's expense, if it is determined to be in the cost effective interest of the town or the town is unable to provide suitable service.

(8) Nothing in this section shall prohibit commercial establishments from removing their own solid waste or from contracting with a private collector for such removal provided said private collector shall have a valid permit or license to do business within the town.

(9) The owner or developer of commercial, industrial, or institutional facilities, such as regional malls, shopping centers, hospitals, medical centers, commercial housing facilities, and other major developments shall be required to show methods of handling solid waste and locations of all solid waste containers and handling equipment on an approved site plan to the utilities supervisor or his designee prior to beginning construction.

(10) Premises to be kept clean. It shall be unlawful for any person or persons owning, leasing, occupying or having control of property within the corporate limits, regardless of whether such property is vacant or contains structures thereon, to permit the accumulation of garbage, refuse, hazardous waste, or other undesirable materials thereon. It is the responsibility of the individual(s) having control of commercial housing facilities, and commercial establishments to maintain the container(s) and the surrounding area in a clean, neat and sanitary condition at all times.

(11) Prohibited substances and practices. (a) The following substances are hereby prohibited and shall not be deposited in approved containers serviced by the town garbage collection equipment:

(i) Flammable liquids, solids or gas, such as gasoline, benzine, alcohol or other similar substances.

(ii) Any material that could be hazardous or injurious to town employees or which could cause damage to town equipment.

(iii) "Construction waste."

(iv) Hot materials such as ashes, cinders, etc.

(v) Human or animal waste, unless it is placed and secured in a plastic bag or suitable paper bag.

(b) No unauthorized person may move, remove, upset, scatter, tamper with, use, carry away, deface, mutilate, destroy, damage or interfere with the garbage container.

(c) It is unlawful to place wet kitchen waste in a container, unless it is secured in a plastic bag before doing so. (Ord. #7-26-88, July 1988)

17-105. Violations. (1) Any person violating any of these regulations shall be served by the town with written notice stating the nature of the violation and providing a ten (10) days' time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice permanently cease all violations.

(2) Any person who shall continue any violation beyond the time provided for in subsection (1) above shall be guilty of a misdemeanor and shall be punished under the general penalty clause of this code.

(3) Any person violating any of the provisions of these regulations shall become liable to the town for any expense, loss, or damage occasioned the town by reason of such violation. (Ord. #7-26-88, July 1988)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

CHAPTER 1

WATER AND SEWERS

SECTION

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[1]Municipal code references
Building, utility and housing codes: title 12.
Cross connections policy: title 18, chapter 3.
Refuse disposal: title 17.
Wastewater regulations: title 18, chapters 2 and 3.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1988 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

(2) "Service line" shall consist of the pipe line extending from any water or sewer main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(4) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1988 Code, § 13-102)

18-103. Pre-specifications. The board of mayor and aldermen shall determine at its discretion the specifications governing materials used in and the sizing of water and sewer lines. (1988 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form contract and pay a service deposit before service is supplied. The service deposit shall be refundable if and only if the town cannot supply service in accordance with the terms of this chapter. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant. (1988 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1988 Code, § 13-105)

18-106. Connection charges. Service lines will be laid by the town from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the town.

Before a new water or sewer service line will be laid by the town, the applicant shall pay a nonrefundable connection charge.

When a service line is completed, the town shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer. (1988 Code, § 13-106)

18-107. Water and sewer main extensions.[1] Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

All such extensions shall be installed either by town forces or by other forces working directly under the supervision of the town in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the town, such water and/or sewer mains shall become the property of the town. The persons paying the cost of constructing such mains shall execute any written instruments requested by the town to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the town shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains. (1988 Code, § 13-107)

18-108. Water and sewer main extension variances. Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the town and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the
preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen.

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[1]Municipal code reference
Construction of building sewers: title 18, chapter 2.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. (1988 Code, § 13-108)

18-109. Meters. All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1988 Code, § 13-109)

18-110. Meter tests. The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	Percentage
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. However, if a test required by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

Meter Size	Test Charge
5/8", 3/4", 1"	$12.00
1-1/2", 2"	15.00
3"	18.00
4"	22.00
6" and over	30.00

If such test show a meter not to be accurate within such limits, the cost of such meter test shall be borne by the town. (1988 Code, § 13-110)

18-111. Multiple services through a single meter. No customer shall supply water service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the town.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the town's applicable water schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1988 Code, § 13-111)

18-112. Customer billing and payment policy. Water and sewer bills shall be rendered monthly and shall designate a standard net payment period for all members of not less than fifteen (15) days after the date of the bill. Failure to receive a bill will not release a customer from payment obligation. There is established for all members a late payment charge not to exceed 10% for any portion of the bill paid after the net payment period.

Payment must be received in the water and sewer department no later than 4:30 P.M. on the due date. If the due date falls on Saturday, Sunday, or a holiday, net payment will be accepted if paid on the next business day no later than 4:30 P.M.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available. (1988 Code, § 13-112)

18-113. Termination or refusal of service. (1) Basis of termination or refusal. The town shall have the right to discontinue water and sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

(a) These rules and regulations, including the nonpayment of bills.

(b) The customer's application for service.

(c) The customer's contract for service.

The right to discontinue service shall apply to all water and sewer services received through collective single connections or services, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

(2) Termination of service. Reasonable written notice shall be given to the customer before termination of water service according to the following terms and conditions:

(a) Written notice of termination (cut-off) shall be given to the customer at least five (5) days prior to the scheduled date of termination. The cut-off notice shall specify the reason for the cut-off, and

(i) The amount due, including other charges.

(ii) The last date to avoid service termination.

(iii) Notification of the customer's right to a hearing prior to service termination, and, in the case of nonpayment of bills, of the availability of special counseling for emergency and hardship cases.

(b) In the case of termination for nonpayment of bills, the employee carrying out the termination procedure will attempt before disconnecting service to contact the customer at the premises in a final effort to collect payment and avoid termination. If the customer is not at home, service may be left connected for one (1) additional day and a further notice left at a location conspicuous to the customer.

(c) Hearings for service termination, including for nonpayment of bills, will be held by appointment at the company office between the hours of 8:00 A.M. and 4:30 P.M. on any business day, or by special request and appointment a hearing may be scheduled outside those hours.

(d) Termination will not be made on any preceding day when the water and sewer department is scheduled to be closed.

(e) If a customer does not request a hearing, or, in the case of nonpayment of a bill, does not makes payment of the bill, or does not otherwise correct the problem that resulted in the notice of termination in a manner satisfactory to the water and sewer department, the same shall proceed on schedule with service termination.

(f) Service termination for any reason shall be reconnected only after the payment of all charges due or satisfactory arrangements for payment have been made, or the correction of the problem that resulted in the termination of service in a manner satisfactory to the water and sewer department, plus the payment of a reconnection charge of $25.00 if the reconnection is made during regular business hours, or $40.00 if the reconnection is made after regular business hours. (1988 Code, § 13-113)

18-114. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1988 Code, § 13-114)

18-115. Access to customers' premises. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1988 Code, § 13-115)

18-116. Inspections. The town shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The town reserves the right to refuse service or to discontinue service to any premises not in compliance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1988 Code, § 13-116)

18-117. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer. (1988 Code, § 13-117)

18-118. Customer's responsibility for violations. Where the town furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1988 Code, § 13-118)

18-119. Supply and resale of water. All water shall be supplied within the town exclusively by the town, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the town. (1988 Code, § 13-119)

18-120. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town. (1988 Code, § 13-120)

18-121. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the town a written notice of such occurrence. (1988 Code, § 13-121)

18-122. Damages to property due to water pressure. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. (1988 Code, § 13-122)

18-123. Liability for cutoff failures. The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the town has failed to cut off such service.

(2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the town's main.

Except to the extent stated above, the town shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1988 Code, § 13-123)

18-124. Restricted use of water. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1988 Code, § 13-124)

18-125. Interruption of service. The town will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1988 Code, § 13-125)

18-126. Schedule of rates and charges. All water and sewer rates, deposits, fees, taps, tie-in charges, reconnection charges, and meter rates shall be determined by the board of mayor and aldermen from time to time, by appropriate ordinance or resolution.[1] (1988 Code, § 13-126)

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[1]Administrative ordinances and regulations are of record in the office of the town recorder.

CHAPTER 2

GENERAL WASTEWATER REGULATIONS[1]

SECTION

18-201. Purpose and policy. This chapter sets forth uniform requirements for users of the City of Pikeville, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

(1) To protect public health;

(2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;

(3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;

(4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(5) To promote reuse and recycling of industrial wastewater and sludge from the facility;

(6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and

(7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

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[1]Municipal code reference
Plumbing code: title 12.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Pikeville must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 3 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 3 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (1988 Code, § 8-301, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-202. Administrative. Except as otherwise provided herein, the mayor shall serve as local administrative officer and shall administer, implement, and enforce the provisions of this chapter. The Pikeville Board of Mayor and Aldermen shall serve as the local hearing authority. (1988 Code, § 8-302, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-203. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, et seq.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(4) "Authorized or duly authorized representative of industrial user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the

operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (a)-(c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-209 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees (20°) centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The national categorical pretreatment standards or pretreatment standard as found in 40 C.F.R. chapter I, subchapter N, parts 405-471.

(9) "City." The Board of Mayor and Aldermen, City of Pikeville, Tennessee.

(10) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(11) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 C.F.R. 403.11.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(20) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(21) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(22) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data.

Collection of influent grab samples should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(23) "Grease interceptor." An interceptor whose rated flow is fifty (50) g.p.m. (gallons per minute) or less and is generally located inside the building.

(24) "Grease trap." An interceptor whose rated flow is fifty (50) g.p.m. or more and is located outside the building.

(25) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(26) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(27) "Indirect discharge." The introduction of pollutants into the WWF from any nondomestic source.

(28) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. § 1342).

(29) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(30) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(31) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(32) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(33) "Local administrative officer." The chief administrative officer of the local hearing authority.

(34) "Local hearing authority." The board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-305.

(35) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(36) "NAICS" or "North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) system.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or

contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph

(38) "NPDES" or "National Pollution Discharge Elimination System." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act as amended.

(39) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(40) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(44) "Pretreatment" or "treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 C.F.R. section 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards" or "standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(48) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this

instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See WWF, Wastewater Facility, found in definition number (63), below.

(49) "Shall" is mandatory; "may" is permissive.

(50) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 C.F.R. 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 C.F.R. 403.8(f)(6)).

(51) "Significant noncompliance." Per Tennessee Rules and Regulations 1200-4-14-.08(6)(b)8.

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-305(1)(b)(i)(D) Emergency Order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(52) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(53) "Standard Industrial Classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(54) "State." The State of Tennessee.

(55) "Storm sewer" or "storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(56) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(58) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(59) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(60) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(61) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability, Tennessee Code Annotated, § 68-221-201.

(62) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(63) "Wastewater facility." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or publicly owned treatment works.

(64) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(65) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (1988 Code, § 8-303, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-204. Proper waste disposal required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this ordinance or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other

purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205 of this chapter.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (1988 Code, § 8-304, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-205. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-204(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department. (1988 Code, § 8-305, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-206. Connection to public sewers. (1) Application for service.

(a) There shall be two (2) classifications of service;

(i) Residential; and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of the ordinance comprising this chapter shall

be completely and permanently disconnected within sixty (60) days of the effective day of this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the city at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system - four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four inch (4") sewers - one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe Schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-207 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city

or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow storm water or ground water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works, located at http://www.state.tn.usenvironrnent/wpc/publications/. Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and

final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (1988 Code, § 8-306, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-207. Septic tank effluent pump or grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the city.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the city.

(b) Pumps must be approved by the city and shall be maintained by the city.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) Ownership and easements. Homeowners or developers shall provide the city with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the city to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction..

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the city. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.

(7) Additional charges. The city shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (1988 Code, § 8-307, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-208. Regulation of holding tank waste disposal or trucked in waste. (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-307 of this title. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other

wastewater or excreta disposal systems within the service area of the City of Pikeville.

(5) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (1988 Code, § 8-308, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-209. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-210 or 18-305. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, wastestreams with a closed cup flash point of less than one hundred forty degrees (140°) F or sixty degrees (60°) C using the test methods specified in 40 C.F.R. 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees (40°) C (one hundred four degrees (104°) F) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 C.F.R. 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 3 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria, unless specifically allowed by their discharge permit according to chapter 3 of this title. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - Plant Protection Criteria

Parameter	Maximum concentration (mg/l)
Arsenic	5.79
Benzene	18.75
Cadmium	2.54

Parameter	Maximum concentration (mg/l)
Carbon tetrachloride	150
Chloroform	223.68
Chromium (total)	91
Copper	130
Cyanide	92.11
Ethybenzene	40
Lead	26.1
Mercury	0.33
Methylene chloride	96.15
Molybdenum	2.123
Naphthalene	12.5
Nickel	31.47
Phenol	454.55
Selenium	2.831
Silver	12.65
Tetrachloroethylene	138.89
Toluene	375
Total phthalate	169.74
Trichlorethlene	100
1,1,1-Trichloroethane	250
1,2 Transdichloroethylene	7.5
Zinc	235.9

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in

excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning,

that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable city guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the city is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under § 18-302 to regulate the discharge of fat, oil and grease. (1988 Code, § 8-309, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-210. <u>Enforcement and abatement</u>. Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 3. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety

or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (1988 Code, § 8-310, as replaced by Ord. #10-14-O02, Oct. 2002, and Ord. #2A-8-O10, April 2010)

18-211. [Deleted.] (1988 Code, § 8-311, as replaced by Ord. #10-14-O02, Oct. 2002, and deleted by Ord. #2A-8-O10, April 2010)

18-212. [Deleted.] (1988 Code, § 8-312, as replaced by Ord. #10-14-O02, Oct. 2002, and deleted by Ord. #2A-8-O10, April 2010)

CHAPTER 3

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS[1]

SECTION

18-301. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 C.F.R. 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-209 of this title.

(2) Users wishing to discharge pollutants at higher concentrations than Table A - Plant Protection Criteria of § 18-209, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-305.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as Table B - Local Limits or other applicable state and federal pretreatment rules which may take effect after the passage of the ordinance comprising this chapter.

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[1]Municipal code reference
Plumbing code: title 12.

Table B - Local Limits

Pollutant	Monthly Average* Maximum Concentration (mg/l)	Daily Maximum Concentration (mg/l)
Arsenic	0.06127	0.12255
Benzene	0.1984	0.3968
Cadmium	0.02688	0.05376
Carbon tetrachloride	1.5875	3.175
Chloroform	2.3672	4.7345
Chromium (total)	0.9630	1.9261
Copper	1.21833	2.4366
Cyanide	0.9748	1.94966
Ethybenzene	0.42333	0.84666
Lead	0.02762	0.55245
Mercury	0.00349	0.00698
Methylene chloride	1.01758	2.0351
Molybdenum	0.02246	0.04493
Napthalene	0.03329	0.06658
Nickel	0.33305	0.6661
Phenol	4.6194	9.2388
Selenium	0.02996	0.05992
Silver	0.13387	0.26775
Tetrachloroethylene	1.4699	2.9398
Toluene	3.9687	7.9375
Total phthalate	1.73566	3.47133
Trichlorethlene	1.05833	2.11666
1,1,1-Trichoroethane	2.6458	5.29166

Pollutant	Monthly Average* Maximum Concentration (mg/l)	Daily Maximum Concentration (mg/l)
1,2 Transdichloroethylene	0.07937	0.15875
Zinc	2.2678	4.5357

*Based on 24-hour flow proportional composite samples unless specified otherwise.

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge limits. Maximum concentrations may also be established for some users.

Table C - Surcharge and Maximum Limits

Parameter	Surcharge Limit	Maximum Concentration
Total Kjeldahl Nitrogen (TKN)	15 mg/L	25 mg/L
Oil and grease	50 mg/L	100 mg/L
MBAS	5 mg/L	10 mg/L
BOD	300 mg/L	700 mg/L
COD	500 mg/L	1,400 mg/L
Suspended solids	300 mg/L	700 mg/L

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also

recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency. (as added by Ord. #2A-8-O10, April 2010)

18-302. Discharge permits. (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-206 of this title and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required

to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-209 and 18-301 discharge variations -- daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and

acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws;

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary;

(G) Requirement to notify the WWF immediately if changes in the users processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written

approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (as added by Ord. #2A-8-O10, April 2010)

18-303. Industrial user additional requirements. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 C.F.R. 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper

operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be

submitted to the pretreatment coordinator before the facility is constructed. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment. This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence. Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (as added by Ord. #2A-8-O10, April 2010)

18-304. <u>Reporting requirements</u>. Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-305.

(1) <u>Baseline monitoring report</u>. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in subsection (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards.

A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula.

(v) Measurement of pollutants.

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 C.F.R. 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 C.F.R. 136 or other approved methods.

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-304(2) of this title.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-304(14) of this title and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-304(1)(d) of this title:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components,

commencing and completing construction, and beginning and conducting routine operation).

(b) No increment referred to above shall exceed nine (9) months.

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-304(1)(b)(iv) and (v) of this title. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the

procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-301 of this title.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-302 of this chapter or modify an existing wastewater discharge permit under § 18-302 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-304(5) of this title. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-304(1), (3), and (4) of this chapter.

(b) Dischargers are exempt from the requirements of subsection (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute

hazardous wastes as specified in 40 C.F.R. 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued there under, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 C.F.R. part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited

in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-302. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the

system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (as added by Ord. #2A-8-O10, April 2010)

18-305. Enforcement response plan. Under the authority of Tennessee Code Annotated, § 69-3-123, et seq.

(1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the Pikeville Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-305(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the city or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation

of the violation and a plan for its satisfactory connection and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occuring before or after receipt of the notice of violation. Nothing in this section limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one (1) of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or

the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written

petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subsection (a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Bledsoe County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (b);

(viii) Any person to whom an emergency order is directed under § 18-305(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125.

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the city resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have

violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-302(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations or a wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-209.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of noncompliance. (a) Insignificant noncompliance: For the purpose of this guide, insignificant noncompliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous

limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under 18-305(1)(b)(i)(D), Emergency Order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours. Any significant noncompliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A), which is located at the end of this chapter.

(9) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (c), (d) or (h) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the

measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-203 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWF personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (as added by Ord. #2A-8-010, April 2010)

18-306. Enforcement Response Guide Table. (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement Response Guide Table. The applicable officer shall use the schedule found in Appendix A (which is located at the end of this

chapter) to impose sanctions or penalties for the violation of this chapter. (as added by Ord. #2A-8-O10, April 2010)

18-307. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

(a) Inspection fee and tapping fee;
(b) Fees for applications for discharge;
(c) Sewer use charges;
(d) Surcharge fees (see Table C);
(e) Waste hauler permit;
(f) Industrial wastewater discharge permit fees;
(g) Fees for industrial discharge monitoring; and
(h) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-302 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) Sewer user charges.[1] The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-307 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix A), which is located at the end of this chapter. The local administrative officer may access a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

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[1]Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

Category 1	No penalty
Category 2	$50.00-$500.00
Category 3	$500.00-$1,000.00
Category 4	$1,000.00-$5,000.00
Category 5	$5,000.00-$10,000.00

(as added by Ord. #2A-8-010, April 2010)

18-308. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city. (as added by Ord. #2A-8-010, April 2010)

APPENDIX A

Enforcement Response Guide Table
(as added by Ord. #2A-8-O10, April 2010)

Unauthorized Discharge (no permit)				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
Failure to return industrial user survey	Initial, requirements not understood	1	Phone call or visit to explain or assist	PC
	Persistent after assistance	4	AO and fine or termination of service	PC, LAO
Unpermitted discharge	IU unaware of requirements; no harm to POTW or environment	1	Phone call and or NOV with application	PC
	IU unaware of requirement; harm to POTW or environment	4	AO and fine or termination of service	LAO
	Failure to apply continues after notification by PC	5	Civil action in chancery court and/or criminal investigation and or termination	LAO
Failure to renew permit	IU has not submitted application within 10 days of due date	1	Phone call, NOV	PC
Discharge Permit Violations				
Exceeding of local, state, or federal standards	Isolated, < or = 1/month (no harm)	1	Phone call and/or NOV	PC
	Isolated, > or = 1/month (no harm)	2	NOV and/or AO	PC, LAO
	Isolated, harmful to POTW or environment	3	Show cause hearing and/or AO and fine, and/or legal action	PC, LAO

Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
	Chronic or TRC, no harm	1	NOV and public notice	PC
	Chronic or TRC, no harm	2, 2nd 3, 3rd 4, 4th fine	Public notice, with/without AO and fine	PC, LAO
	Chronic or TRC, harm to POTW or environment	4	AO and fine, and/or legal action, and/or termination of service	LAO
Reporting violation	Report improperly signed or certified	1	Phone call and/or NOV	PC
	Report improperly signed or certified after prior notice	2	Show cause hearing and/or AO	PC LAO
	Isolated, (< 20%/6 mo. > 5 days late)	1	Phone call and/or NOV	PC
	Significant, (> 20%/6 mo. > 5 days late)	2	AO to submit and fine for each additional day late	LAO
	Reports always late: failure to submit (> 75% of reports > 5 days late) within 12 month reporting period	5	AO and fine and/or civil action or chancery court or termination of service	LAO
	Failure to report spill or discharge change, no harm	1	NOV	PC
	Failure to report spill or discharge change with harm	3	AO and fine and/or civil action	LAO

Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
	Repeated failure to report spills > 2 failures/12 mo. Reporting periods	5	AO and fine and/or civil action or termination	LAO
	Falsification of records	5	Criminal investigation or termination	LAO
Failure to monitor correctly	Failure to monitor all permit required pollutants	1 2	NOV 1st/12 mo. reporting period AO 2nd/12 mo. reporting period	PC LAO
	Recurring failure to monitor > 4 failures/24 month reporting period	3	AO and fine and/or civil action	LAO
Improper sampling	No evidence of intent	1	NOV	PC
	Evidence of intent, tampering with	3, 1st 5, Repeated	NOV and AO Criminal investigation or termination	PC, LAO
Monitoring and Reporting Violations				
Failure to install monitoring equipment	Delay of less than 30 days	1	NOV	PC
	Delay of more than 30 days	2	AO to install with fine for each additional day	LAO
	Recurring, violation of AO	5	Civil action or criminal investigation or termination of service	LAO
Compliance schedule	Missed milestone, less than 30 days, will not affect final schedule	1	NOV	PC

Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
	Missed milestone more than 30 days, will affect final schedule (good cause)	2	AO	LAO
	Missed milestone, more than 30 days, will affect final schedule (no good cause)	4	AO and fine Civil action or termination	LAO
	Recurring violations or violations of AO	5	Civil action and/or criminal investigation and/or termination of service	LAO
Other Permit Violations				
Waste stream dilution in lieu of pretreatment	Initial violation	2	AO and fine	LAO
	Recurring	3	Show cause hearing Termination	LAO
Failure to mitigate noncompliance or halt production	Does not cause harm	1	NOV	PC
	Does cause harm	5	AO and fine or civil action	LAO
Discharging following a terminated permit due to enforcement action that terminated service	Initial violation	5	Maximum penalties	LAO
Failure to resample following violation	Initial violation	1	Phone call or visit	PC

Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
	Repeated failure after notice by PC	2nd #1, 3rd #2, 4th #3	2nd NOV, 3rd AO and fine 4th AO and fine and/or termination of service	PC, LAO
Failure to properly operate and maintain facility	Does not cause harm	1	NOV	PC
	Does cause harm, or reoccurring	4	AO and fine or, civil action	LAO
Violations Detected During Site Visit				
Entry denial	Entry denied or consent withdrawn: copies of records denied	2	Obtain warrant and return to IU	PC
Illegal discharge, violation of general discharge prohibitions	No harm to POTW or environment	2	AO and fine	LAO
	Caused harm or evidence of intent or negligence	4	AO and fine and/or civil action and or criminal investigation	LAO
	Recurring, violation of AO	5	Terminate service	LAO
Improper sampling	Unintentional sampling at incorrect location	1	NOV	PC
	Unintentional using incorrect sample type	1	NOV	PC
	Unintentional using incorrect techniques	1	NOV	PC
Inadequate record keeping	Files incomplete or missing (no evidence of intent)	1	NOV	PC
	Recurring	3	AO and fine	LAO

Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
Failure to report additional monitoring	Inspection finds additional files (unintentional)	2	NOV	LAO
	Recurring (considered falsification)	4	AO and fine	LAO

CHAPTER 4

CROSS CONNECTIONS POLICY[1]

SECTION

18-401. Background and purpose. In order for the Pikeville Water System to serve the public and to comply with the regulations of the Environmental Protection Agency and the Tennessee Department of Environment and Conservation and other state and federal regulations, the Pikeville Water System must establish a cross connection policy and program to protect the public's water supply.

The Pikeville Water System is run for the benefit of all present and future customers, and while no customer shall intentionally be treated unfairly, no customer shall be treated in a way that compromises the interests of other current and future customers.

(1) Limitations. The Pikeville Water System is subject to various city, county, state, federal or other governmental agency requirements and has no discretion to provide service in a manner which would violate such regulations or requirements.

(2) Record keeping duration. All records regarding cross connections shall be kept indefinitely.

(3) Omissions. In the absence of specific roles or policies, the governing board in accordance with its usual and customary practices shall make the disposition of situations involving service.

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[1]Municipal code references
Plumbing code: title 12.
Wastewater regulations: title 18, chapters 2 and 3.

This policy sets forth uniform requirements for the protection of the public water system for Pikeville Water System from possible contamination, and enable the Pikeville Water System to comply with all applicable local, state and federal laws, regulations, standards or requirements, including the Safe Drinking Water Act of 1996, Tennessee Code Annotated, §§ 68-221-701 to 68-221-720 and the Rules and Regulations for Public Water Systems and Drinking Water Quality issued by the Tennessee Department of Environment and Conservation, Division of Water Supply. (1988 Code, § 8-401, as replaced by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-402. Objectives. The objectives of this policy are to:

(1) To protect the public potable water system of Pikeville Water System from the possibility of contamination or pollution by isolating within the customer's internal distribution system, such contaminants or pollutants that could backflow or backsiphon into the public water system;

(2) To promote the elimination or control of existing cross connections, actual or potential, between the customer's in-house potable water system and non-potable water systems, plumbing fixtures, and industrial piping systems;

(3) To provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (1988 Code, § 8-402, as replaced by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-403. Definitions. The following words, terms, and phrases shall have the meanings ascribed to them in this section, when used in the interpretation and enforcement of this chapter:

(1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than two inches (2"). Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than two inches (2").

(2) "Atmospheric vacuum breaker" shall mean a device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(3) "Auxiliary intake" shall mean any water supply, on or available to a premises, other than that directly supplied by the public water system. These auxiliary waters may include water from another purveyor's public water system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.

(4) "Backflow" shall mean the undesirable reversal of the intended direction off low in a potable water distribution system as a result of a cross connection.

(5) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, steam and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross connection" shall mean any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water system as a result of backflow or backsiphonage. Bypass arrangements, jumper connections, removable sections, and swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross connections.

(9) "Double check valve assembly" shall mean an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(10) "Double check detector assembly" shall mean an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(11) "Fire protection systems" shall be classified in six (6) different classes in accordance with AWWA Manual M14 - Second Edition 1990. The six (6) classes are as follows:

Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere; dry wells or other safe outlets.

Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

Class 3 shall be those with direct connection from public water supply mains, plus one (1) or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" shall mean any system of piping or other arrangements whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device, which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(13) "Manager" shall mean the Manager of the Pikeville Water System or his duly authorized deputy, agent or representative.

(14) "Person" shall mean any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(15) "Potable water" shall mean water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(16) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(17) "Public water supply" shall mean the Pikeville Water System, which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(18) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(19) "Water system" shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility system shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system; up to the point where the customer's system begins (i.e.,the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use. (1988 Code, § 8-403, as replaced by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-404. Compliance with Tennessee Code Annotated. The Pikeville Water System shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The Pikeville Water System shall comply with Tennessee Code Annotated, § 68-221-711 as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses. (1988 Code, § 8-404, as replaced by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-405. Regulated. (1) No water service connection to any premises shall be installed or maintained by the Pikeville Water System unless the water supply system is protected as required by state laws and this policy. Service of water to any premises shall be discontinued by the Pikeville Water System if a backflow prevention device required by this policy is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) It shall be unlawful for any person to cause a cross connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross connection is at all times under the direction of the manager of the Pikeville Water System.

(3) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or

immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required, and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the Pikeville Water System shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this policy. (1988 Code, § 8-405, as replaced by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-406. Permit required. (1) New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the Pikeville Water System for approval.

(2) Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval from the Pikeville Water System. (1988 Code, § 8-406, as replaced by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-407. Inspections. The manager or his designated agent shall inspect all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and re-inspection shall be based on potential health hazards involved, and shall be established by the Pikeville Water System in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. (1988 Code, § 8-407, as replaced by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-408. Right of entry for inspections. The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Pikeville Water System public water system for the purpose of inspecting the piping system therein for cross connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections, and shall be grounds for disconnection of water service. (1988 Code, § 8-408, as

replaced by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-409. Correction of violations. (1) Any person found to have cross connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this policy shall be allowed a reasonable time within which to comply with the provisions of this policy. After a thorough investigation of the existing conditions and an appraisal of the time required to complete the work, the manager or his representative shall assign an appropriate amount of time, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, the Pikeville Water System shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this policy and Tennessee Code Annotated, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customers on-site piping in such a manner that the two (2) systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing. (1988 Code, § 8-409, as replaced by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-410. Required devices. (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line, when any of the following conditions exist:

(a) Impractical to provide an effective air-gap separation;

(b) The owner/occupant of the premises cannot or is not willing to demonstrate to the Pikeville Water System that the water use and

protective features of the plumbing are such as to pose no threat to the safety or potability of the water;

(c) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;

(d) There is likelihood that protective measures may be subverted, altered, or disconnected;

(e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;

(f) The plumbing from a private well or other water source enters the premises served by the public water system.

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems) approved by the Tennessee Department of Environment and Conservation and the Pikeville Water System, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the Pikeville Water System prior to installation and shall comply with the criteria set forth in this policy. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all medical facilities, all fountains, lawn irrigation systems, wells, water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by the Pikeville Water System as needing protection:

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly; except

(i) A double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems;

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5, and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(4) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(5) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required. devices shall be installed in accordance with the provisions of this policy, by a person approved by the Pikeville Water System who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair, or test backflow prevention devices on fire protection systems.

(b) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device. All fittings shall be of brass construction, unless otherwise approved by the Pikeville Water System, and shall permit direct connection to department test equipment.

(c) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(d) All devices shall be placed in the upright position in a horizontal run of pipe.

(e) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(f) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either;

(i) The floor;

(ii) The top of opening(s) in the enclosure; or

(iii) Maximum flood level, whichever is higher. Maximum height above the floor surface shall not exceed sixty inches (60").

(g) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in non-removable enclosures shall have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(h) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted, or solidly piped to a drain.

(i) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(j) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(k) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(l) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(m) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/backsiphonage through the drain may occur.

(n) Enclosures for outside installations shall meet the following criteria:

(i) All enclosures for backflow prevention devices shall be as manufactured by a reputable company or an approved equal.

(ii) For backflow prevention devices up to and including two inches (2"), the enclosure shall be constructed of adequate material to protect the device from vandalism and freezing and shall be approved by the Pikeville Water System. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to and including two inches (2"), the enclosure shall be completely removable. Access for backflow prevention devices two and one-half inches (2 1/2") and larger shall be provided through a minimum of two (2) access panels. The access panels shall be of the same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad in no case less than four inches (4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating, equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of forty degrees (+40°) F with an outside temperature of negative thirty degrees (-30°) F and a wind velocity of fifteen (15) miles per hour.

(o) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective

device. Where it is found that only one (1) device has been installed and the continuance of service is critical, the Pikeville Water System shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, the Pikeville Water System may require the installation of a duplicate device.

(p) The Pikeville Water System shall require the occupant of the premises to keep any backflow prevention devices working properly, and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to the Pikeville Water System. Expense of such repairs shall be borne by the owner for occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing, or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective shall constitute a violation of this policy and shall be grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Pikeville Water System.

(6) Testing of devices. Devices shall be tested at least annually by the Pikeville Water System by a qualified person possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A record of this test will be on file with the Pikeville Water System and a copy of this report will be supplied to the customer. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises. (1988 Code, § 8-410, as replaced by Ord. #12-13-O04, Jan. 2005, renumbered by Ord. #2A-8-O10, April 2010, and amended by Ord. #2-13-017, April 2017 ***Ch3_6-29-18***)

18-411. Non-potable supplies. The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this policy. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

WATER UNSAFE FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color-coding of pipelines, in accordance with Occupational Safety and Health (OSHA) Act guidelines, shall be required in locations where in the judgment of the Pikeville Water System, such coding is necessary to identify and protect the potable water supply. (as added by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-412. Statement required. Any person whose premises are supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the Pikeville Water System a statement of the nonexistence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (as added by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-413. Penalty; discontinuance of water supply. (1) Any person who neglects or refuses to comply with any of the provisions of this policy may be deemed guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars ($1,000.00).

(2) Independent of and in addition to any fines or penalties imposed, the manager may discontinue the public water supply service to any premises upon which there is found to be a cross connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross connection, auxiliary intake, bypass or interconnection has been eliminated. (as added by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

18-414. Provision applicable. The requirements contained in this policy shall apply to all premises served by the Pikeville Water System and are hereby made part of the conditions required to be met for the Pikeville Water System to provide water services to any premises. The provisions of this policy shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the policy is entitled to a due process hearing upon timely request. (as added by Ord. #12-13-O04, Jan. 2005, and renumbered by Ord. #2A-8-O10, April 2010)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

CHAPTER 1

ELECTRICITY[1]

SECTION

19-101. To be furnished by Sequatchie Valley Electric Cooperative. Electricity shall be provided to the Town of Pikeville and its inhabitants by the Sequatchie Valley Electric Cooperative. The rights, powers, duties, and obligations of the Town of Pikeville and its inhabitants, are stated in the agreements between the parties.[2] (1988 Code, § 13-201)

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[1]Municipal code reference
Electrical code: title 12.

[2]The agreements are of record in the office of the recorder.

CHAPTER 2

GAS[1]

SECTION

19-201. Application and scope. The provisions of this chapter are a part of all contracts for receiving gas service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1988 Code, § 13-301)

19-202. Definitions. (1) "Customer" means any person, firm, or corporation who receives gas service from the town under either an express or implied contract.

(2) "Service line" shall consist of the pipe line extending from any gas main of the town to private property.

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[1]Municipal code reference
Gas code: title 12.

Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's gas main to and including the meter and meter box.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(4) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1988 Code, § 13-302)

19-203. Application and contract for service. Each prospective customer desiring gas service will be required to sign a standard form contract and pay a service deposit before service is supplied. The service deposit shall be refundable if and only if the town cannot supply service in accordance with the terms of this chapter. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish the service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant. (1988 Code, § 13-303)

19-204. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for gas service. (1988 Code, § 13-304)

19-205. Connection charges. Service lines will be laid by the town from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the town.

Before a new gas service line will be laid by the town, the applicant shall make a nonrefundable connection charge.

When a service line is completed, the town shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer. (1988 Code, § 13-305)

19-206. Gas main extensions. Persons desiring gas main extensions must pay all of the cost of making such extensions. All such extensions shall be installed either by municipal forces or by other forces working directly under the supervision of the town in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the town, such gas mains shall become the property of the town. The persons paying the cost of constructing such mains shall execute any written instruments requested by the town to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the town shall incorporate the mains as an integral part of the municipal gas system and shall furnish gas service therefrom in accordance with these rules and regulations. (1988 Code, § 13-306)

19-207. Gas main extension variances. Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the town and its inhabitants to construct a gas main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen.

The authority to make gas main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. (1988 Code, § 13-307)

19-208. Meters. All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a gas meter without the written permission of the town. No one shall install any pipe or other device which will cause gas to pass through or around a meter without the passage of such gas being registered fully by the meter. (1988 Code, § 13-308)

19-209. Multiple services through a single meter. No customer shall supply gas service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the town.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of gas used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The gas and charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of gas so allocated to it, such computation to be made at the town's applicable gas schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1988 Code, § 13-309)

19-210. Customer billing and payment policy. Gas bills shall be rendered monthly and shall designate a standard net payment period for all members of not less than 15 days after the date of the bill. Failure to receive a

bill will not release a customer from payment obligation. There is established for all members a late payment charge not to exceed 10% for any portion of the bill paid after the net payment period.

Payment must be received in the gas department no later than 4:30 P.M. on the due date. If the due date falls on Saturday, Sunday, or a holiday net payment will be accepted if paid on the next business day no later than 4:30 P.M.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if gas is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available. (1988 Code, § 13-310)

19-211. Termination or refusal of service. (1) Basis of termination or refusal. The town shall have the right to discontinue gas service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

(a) These rules and regulations, including the nonpayment of bills.

(b) The customer's application for service.

(c) The customer's contract for service.

Such right to discontinue service shall apply to all gas services received through collective single connections or services, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

(2) Termination of service. Reasonable written notice shall be given to the customer before termination of gas service according to the following terms and conditions:

(a) Written notice of termination (cut-off) shall be given to the customer at least five (5) days prior to the scheduled date of termination. The cut-off notice shall specify the reason for the cut-off and

(i) The amount due, including other charges.

(ii) The last date to avoid service termination.

(iii) Notification of the customer's right to a hearing prior to service termination, and, in the case of nonpayment of bills, of the availability of special counseling for emergency and hardship cases.

(b) In the case of termination for nonpayment of bill, the employee carrying out the termination procedure will attempt before disconnecting service to contact the customer at the premises in a final effort to collect payment and avoid termination. If a customer is not at home, service may be left connected for one (1) additional day and a further notice left at a location conspicuous to the customer.

(c) Hearings for service termination, including for nonpayment of bills, will be held by appointment at the company office between the hours of 8:00 A.M. and 4:30 P.M. on any business day, or by special

request and appointment a hearing may be scheduled outside those hours.

(d) Termination will not be made on any preceding day when the gas department is scheduled to be closed.

(e) If a customer does not request a hearing, or, in the case of nonpayment of a bill, does not make payment of the bill, or does not otherwise correct the problem that resulted in the notice of termination in a manner satisfactory to the gas department, the same shall proceed on schedule with service termination.

(f) Service termination for any reason shall be reconnected only after the payment of all charges due or satisfactory arrangements for payment have been made or the correction of the problem that resulted in the termination of service in a manner satisfactory to the gas department, plus the payment of a reconnection charge of $25.00 if the reconnection is made during regular business hours, or $40.00 if the reconnection is made after regular business hours. (1988 Code, § 13-311)

19-212. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1988 Code, § 13-312)

19-213. Access to customer's premises. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing,

inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customers' gas plumbing and premises generally in order to secure compliance with these rules and regulations. (1988 Code, § 13-313)

19-214. Inspections. The town shall have the right, but shall not be obligated, to inspect any installation or gas plumbing system before gas service is furnished or at any later time. The town reserves the right to refuse service or to discontinue service to any premises not in compliance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or gas plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1988 Code, § 13-314)

19-215. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer. (1988 Code, § 13-315)

19-216. Customer's responsibility for violations. Where the town furnishes gas service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1988 Code, § 13-316)

19-217. Supply and resale of gas. All gas shall be supplied within the town exclusively by the town, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the gas or any part thereof except with written permission from the town. (1988 Code, § 13-317)

19-218. Unauthorized use of or interference with gas supply. No person shall turn on or turn off any of the town's gas, valves, or controls without permission of authority from the town. (1988 Code, § 13-318)

19-219. Damages to property due to gas pressure. The town shall not be liable to any customer for damages caused to his gas plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's gas mains. (1988 Code, § 13-319)

19-220. Liability for cutoff failures. The town's liability shall be limited to the forfeitures of the right to charge a customer for gas that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a gas service, the town has failed to cut off such service.

(2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that gas enters the customer's pipes from the town's main.

Except to the extent stated above, the town shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. (1988 Code, § 13-320)

19-221. Restricted use of gas. In times of emergencies or in times of gas shortage, the town reserves the right to restrict the purposes for which gas may be used by a customer and the amount of gas which a customer may use. (1988 Code, § 13-321)

19-222. Interruption of service. The town will endeavor to furnish continuous gas service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal gas system, the gas supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1988 Code, § 13-322)

19-223. Schedule of rates and charges. All gas rates, service deposits, connection fees, taps, tie-in charges, reconnection charges and meter rates shall be determined by the board of mayor and aldermen from time to time by appropriate ordinance or resolution.[1] (1988 Code, § 13-323)

19-224. Damage prevention. The Damage Prevention Program for the natural gas system will be performed in accordance with the new 192.614 of title 49 of the code of Federal Regulation.

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[1]Administrative ordinances and regulations are of record in the office of the town recorder.

(1) Purpose. The purpose of this program is to minimize, and where possible, prevent damage to gas pipeline facilities from excavation activities.

Excavators are persons or companies involved in digging, boring, tunneling, backfilling, removal of above ground structures, or other earth moving operations by use of hand tools, mechanical equipment, or by means of explosives.

(2) Identification of excavators. There will be a list of persons or parties who are likely to engage in excavation activities in the vicinity of pipeline facilities. The list shall include the name, complete mailing address, telephone number and the type of contractual work in which they are normally involved.

The list shall include but not be limited to the following types of contractors:

Pool	Mechanical/Plumbing
Fence	Engineer/Consultants
Demolition	Utilities
Road Building	Land Clearing

The excavator list shall be reviewed and updated annually and all changes be made whether they be additions to or removals from the list. The list of excavators can be found following this plan.

(3) Notifying the public, excavators, and customers. The notification of gas customers will be by bill stuffers and letters; excavators as listed, will be notified by letter, and the public will be notified through newspaper advertising.

Each type notification will be made periodically, but shall not exceed one year intervals.

(4) Field location. Receiving location request: Each location request will be taken by office personnel and recorded on a line location request from which will show the name of contractor, address of job site, date and time.

When the field personnel have located the gas pipeline facilities, they will fill out the line location request form with all needed information and return it to the office. The line location request forms will be kept on file at all times.

(5) Temporary marking. Temporary marking devices consist of flags, stakes, paint or other suitable means of identifying pipeline facilities in the field. Temporary marking devices will be a bright flourescent orange. Temporary marking devices will be placed directly over the facility.

(6) Inspection during excavation. Where there is reason to believe pipeline facilities in close proximity to excavation activities may be damaged, they will be inspected as frequently as necessary to verify the integrity of the facility. In the event that blasting is involved in excavating activities, there will be a leakage survey with flame ionization unit performed immediately after and periodically to determine that no damage has been done to the facilities.

(7) Class locations. The damage prevention written program for the gas system will pertain only to Class 3 and 4. (1988 Code, § 13-324)

TITLE 20

MISCELLANEOUS

CHAPTER

CHAPTER 1

SKATEBOARDS, ROLLER SKATES AND SIMILAR DEVICES

SECTION

20-101. Definitions. For the purposes of this chapter, the following words shall have the meanings ascribed:

(1) "Private property" shall mean any property held by private interests which is used primarily for business, commercial, office space, business park, religious, multi-family or recreational purposes. This shall also include parking facilities for these "private property" areas.

(2) "Public property" shall mean any property owned or maintained by the City of Pikeville and any public utility within the geographical boundaries of the City of Pikeville.

(3) "Roller skates" or "roller blades" means a pair of shoes, mounted upon two (2) seats of wheels and is most often propelled by the user in an upright, standing position or kneeling.

(4) "Skateboard" means a footboard mounted upon four (4) or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lays upon the device while it is in motion. (as added by Ord. #5B-12-O08, Sept. 2008)

20-102. Rules and regulations. (1) It is unlawful for any person to operate a skateboard, roller skates, roller blades or any similar device upon any of the following areas:

(a) All streets or alleys located in the city;

(b) On the premises of any business;

(c) In, upon or on the grounds of any city-owned parking structure;

(d) On or against any city-owned table, bench, structure, tennis court, swimming pool or other improvement which may suffer damage by such use;

(e) In any area of the city park or playground, or a park or playground maintained by the city, or any property owned by the city that is not specifically designated and intended for such use;

(f) Upon any streets or sidewalks or other area of any property within the city without written permission from the owner or occupant or such property. Such written permission shall be in the possession of any person using a skateboard, roller skates, roller blades or any similar device on property for which permissions has been obtained;

(g) On all private property in the city; provided, however, that the use of a skateboard, roller skates, roller blades or any similar device is permitted on such property with the permission and consent of the owner, tenant or other person lawfully in possession of said property;

(h) On all public property owned or controlled by the city and on all public property owned or controlled by other governmental entities, except as may be specifically. authorized by the appropriate governmental entity.

(2) It is unlawful for any person to operate a skateboard, roller skates, roller blades or any similar device upon any street of the city.

(3) It shall be unlawful and subject to punishment for any person utilizing or riding upon a skateboard, roller skates, rollerblades or any similar device to ride or move about in or on any public or private property when the same property has been designated by resolution of the city council.

(4) No person shall use a skateboard, roller blades, or roller skates or similar device outside of a designated "no skateboarding, roller skating, or similar activity area" in a manner which creates a nuisance. For the purpose of this chapter "nuisance" is defined as any activity which:

(a) Threatens injury to persons or property;

(b) Creates an obstruction or presents a hazard to the free and unrestricted use of public or private property by pedestrians or motorists; or

(c) Generates loud or unreasonable noise. (as added by Ord. #5B-12-O08, Sept. 2008)

20-103. Exemptions. Any device designated, intended, and used solely for the transportation of infants, the handicapped, or incapacitated persons, devices designated, intended, and used for the transportation of merchandise to and from the place of purchase and other wheeled devices, when being used for either of these purposes shall be exempt from this chapter. Furthermore the board of mayor and aldermen may, by resolution, suspend the enforcement provisions of this chapter to accommodate special events when so requested by the event organizer. (as added by Ord. #5B-12-O08, Sept. 2008)

20-104. Penalties. Any person who violates any of the provisions of this chapter shall be issued a ticket as being in violation of said chapter.

(1) A person who violates any of the provisions of this chapter shall be ticketed as follows:

(a) Five dollars ($5.00) for the first offense;

(b) Ten dollars ($10.00) for the second offense;

(c) Seventy-five dollars ($75.00) for each subsequent offense.

(2) All tickets shall be paid within fourteen (14) days of the date of said ticket.

(3) In the event said person fails to make payment as provided above, then the police department shall institute formal court proceedings; and the person shall be subject to an additional penalty of fifty dollars ($50.00) plus any court costs that may be assessed.

(4) The members of the police department are directed to refrain from instituting prosecution of such violation where the above amounts are paid and, where not so paid, until the expiration of fourteen (14) days from the date of such violation. (as added by Ord. #5B-12-O08, Sept. 2008)

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF THE CITY OF PIKEVILLE

(as added by Ord. #15-12-O03, July 2003,
and replaced by Ord. #11-12-013, Dec. 2013)

I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of City of Pikeville

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Pikeville Mayor and Aldermen in electing to update and maintain an effective occupational safety and health program plan for its employees,

a. Provide a safe and healthful place and condition of employment.
b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program plan effectiveness and compliance with the occupational safety and health standards.
g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program plan.
h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints

concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this program plan, the following definitions apply:

a. COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

b. EMPLOYER means the City of Pikeville and includes each administrative department, board, commission, division, or other agency of the City of Pikeville.

c. SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or DIRECTOR means the person designated by the establishing Ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program plan for the employees of City of Pikeville.

d. INSPECTOR(S) means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.

e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.

f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or penmanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.

h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee

Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:

   1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
   2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

l. ACT or TOSHAct shall mean the Tennessee Occupational Safety and Health Act of 1972.

m. GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.

n. CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYERS RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
f. Employer is entitled to protection of its legally privileged communication.
g. Employer shall inspect all worksites to insure the provisions of this program plan are complied with and carried out.
h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
i. Employer shall notify all employees of their rights and duties under this program plan.

IV. EMPLOYEES RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any

application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.

c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promuigated under the Act.

d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.

e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

f. Subject to regulations issued pursuant to this program plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.

g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.

h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program plan.

i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

j. Nothing in this or any other provisions of this program plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.

k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.

1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program plan.
2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program plan.
4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program plan.
5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
9. The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of

Labor and Workforce Development receives notification of the occurrence within eight (8) hours.

b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program plan within their respective areas.

1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this program plan are the applicabie standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. NOTE: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety

Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

a. The application for a variance shall be prepared in writing and shall contain:

    1. A specification of the standard or portion thereof from which the variance is sought.
    2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
    3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
    4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
    5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.

b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.

c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

    1. The employer

i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
iii. Has an effective program plan for coming into compliance with the standard as quickly as possible.

2. The employee is engaged in an experimental program plan as described in subsection (b), section 13 of the Act.

d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and click on Recordkeeping Forms located on the home page.
b. The position responsible for record keeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.
c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).

b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.

e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related

correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.

f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

a. Safety Director and/or Compliance Inspector(s):

1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program plan will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.

2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.

3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.

5. Instruct employees on hazards and dangers of confined or enclosed spaces.

   i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
   ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
   iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an occupational safety and health program plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe

conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

a. In order to carry out the purposes of this program plan, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:

    1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
    2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

f. Interviews of empioyees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

g. Advance Notice of Inspections.

    1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary

adjustments in an attempt to create a misleading impression of conditions in an establishment.

2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.

h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:

1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
2. Records are made of the inspections and of any discrepancies found and any corrective actions taken. This information is forwarded to the Safety Director.

i. The Safety Director shall maintain records of inspections to inciude identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. These inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the

location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
5. The imminent danger shall be deemed abated if:

    i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
    ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.

b. Refusal to Abate.

1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and/or Chief Executive Officer immediately.
2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:

1. Issue an abatement order to the head of the worksite.

2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

b. Abatement orders shall contain the following information:

1. The standard, rule, or regulation which was found to violated.
2. A description of the nature and location of the violation.
3. A description of what is required to abate or correct the violation.
4. A reasonable period of time during which the violation must be abated or corrected.

c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program plan.

b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:

1. Oral reprimand
2. Written reprimand
3. Suspension for three (3) or more working days
4. Termination of employment

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program plan or when relevant in any proceeding under this program plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency or Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program plan.

b. Compliance with any provisions of this program plan or any standard, rule, regulation, or order issued pursuant to this program plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

_____

Signature: Safety Director, Occupational Safety and Health and Date

APPENDIX I -- WORK LOCATIONS

ORGANIZATIONAL CHART

(For this section make a list of each work location wherein (City/County/etc) your employees work, such as Street Department, Fire Hall, City Hall, Courthouse, Jail, Sheriff Department, Each School, etc. covered under this Program Plan. Include, the address for the workplace, phone number at that workplace, and number of employees who work there.)

City Hall - 5 FT Emp. - 2 PT = 7
47 City Hall St.
Pikeville, TN 37367
423-447-2919

Police Dept. - 3 FT Emp.
48 City Hall St.
Pikeville, TN 37367
423-447-2585

Pikeville Natural Gas
3 FT Emp. - 1 PT Emp. = 4
Pikeville, TN 37367
423-447-6241

Pikeville Street Dept.
3 FT Emp. - 1 PT Emp = 4
529 Allen P. Dearkins Rd.
Pikeville, TN 37367
423-447-6241

Water Treatment Plant - 3 FT Emp.
38770 SR 30
Pikeville, TN 37367
423-447-6241

Water Dept. 6 FT Emp. - 2 PT Emp. = 8
525 Allen P. Dearkins Rd.
Pikeville, TN 37367
423-447-6241

Pikeville Wastewater Plant - 3 FT Emp.
2280 Main Street
Pikeville, TN 37367
423-447-6589

Pikeville Volunteer Fire Dept. 31 Vol.
3112 Main Street
Pikeville, TN 37367
423-447-6222

TOTAL NUMBER OF EMPLOYEES: 31 + 31 Vol. Firemen Total = 62

APPENDIX II

NOTICE TO ALL EMPLOYEES

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program plan may file a petition with the Safety Director or City Recorder.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such

violation occurs, have an opportunity to appear in a hearing before Mayor and Aldermen for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of City of Pikeville is available for inspection by any employee at Pikeville City Hall during regular office hours.

s/ Philip Cagle 12-27-2013
Signature: MAYOR AND DATE

APPENDIX III

PROGRAM PLAN BUDGET

(Either answer questions 1-11 or fill in the statement below)

1. Prorated portion of wages, salaries, etc., for program plan administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities).
7. Protective clothing and equipment (personnel).
8. Safety and health instruments.
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the program plan.
11. Contingencies and miscellaneous.

TOTAL ESTIMATED PROGRAM PLAN FUNDING:

ESTIMATE OF TOTAL BUDGET FOR:

OR Use This Statement:

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that City of Pikeville has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX IV

ACCIDENT REPORTING PROCEDURES

(1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours, of the occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

(16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

(51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours, after the occurrence. The supervisor will provide the Safety Director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72)

hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.

(251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.

Since a Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health

Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

ORDINANCE NO. 5B-8-000

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF PIKEVILLE TENNESSEE.

WHEREAS some of the ordinances of the Town of Pikeville 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 Pikeville, 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 "Pikeville Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE Town OF PIKEVILLE, 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 "Pikeville 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 that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the

portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars ($500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."[1]

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the

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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

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 considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, MAY 8, 200 0.

Passed 2nd reading, JUNE 12, 200 0.

Passed 3rd reading, JULY 10, 200 0.

Howard L. Tibbs
Mayor

Debra K. Barnett
Recorder