THE
CLIFTON
MUNICIPAL
CODE

Prepared by the

September 2017

CITY OF CLIFTON TENNESSEE

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PREFACE

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

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

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

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

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

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

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

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

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

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

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

Kelley Myers, ACP
Codes Administrator

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

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

6-20-215. Reading; effective date; emergency ordinances.

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

(b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage; provided, that it shall contain the statement that an emergency exists and shall specify the distinct facts and reasons constituting such an emergency.

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

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

6-20-216. Vote; journalization. In all cases under § 6-20-215, the vote shall be determined by yeas and nays, and the names of the members voting for or against an ordinance shall be entered upon the journal. [Acts 1921, ch. 173, art. 5, § 3; Shan. Supp., § 1997a151; Code 1932, § 3548; T.C.A. (orig. ed.), § 6-2027.]

6-20-217. Ordinance recordation and preservation. Every ordinance shall be immediately taken charge of by the recorder and by the recorder be numbered, copied in an ordinance book, filed and preserved in the recorder's office. [Acts 1921, ch. 173, art. 5, § 4; Shan. Supp., § 1997a152; Code 1932, § 3549; T.C.A. (orig. ed.), § 6-2028.]

6-20-218. Penal ordinances; publication. (a) Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city.

(b) No such ordinance shall take effect until the ordinance, or its caption, is published, except as otherwise provided in chapter 54, part 5 of this title. [Acts 1921, ch. 173, art. 5, § 5; Shan. Supp., § 1997a153; Code 1932, § 3550; T.C.A. (orig. ed.), § 6-2029; Acts 1981, ch. 194, § 1; Acts 1984, ch. 811, § 2.; Acts 1989, ch. 175, § 16.]

6-20-219. Mayor; acts required by ordinance. The mayor has the power and it is hereby made the mayor's duty to perform all acts that may be required of the mayor by any ordinance duly enacted by the board of commissioners, not in conflict with any of the provisions of this charter. [Acts 1921, ch. 173, art. 6, § 2; Shan. Supp., § 1997a155; Code 1932, § 3552; T.C.A. (orig. ed.), § 6-2030.]

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

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[1]Charter reference

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

Municipal code references

Fire department: title 7.

Water and sewers: title 18.

Zoning: title 14.

CHAPTER 1

BOARD OF COMMISSIONERS[1]

SECTION

1-101. Time and place of regular meetings. Pursuant to Tennessee Code Annotated, § 6-20-207, the time and place at which the regular meeting of the Board of Commissioners of the City of Clifton, Tennessee, shall be the fourth Monday of each and every month at the Clifton City Hall in Clifton, Tennessee at 7:00 P.M. (CST). Provided however, the board of commissioners may reschedule or cancel a future regular monthly meeting upon the approval of a majority of the Board of commissioners at any meeting of the board prior to the date of the regular meeting to be rescheduled or canceled. Additionally, regular meetings falling on a city recognized holiday or Frank Hughes School graduation night will be held on the first weekday following the holiday at the regular time and place. (Ord #257, Jan. 2017)

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[1]Charter reference

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

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

Removal of mayor and commissioners: § 6-20-220.

1-102. Meetings; quorum; rules of proceeding; powers of board. Any regular meeting of the board of commissioners may be adjourned to meet on any other day before the regular meeting, and any and all business that may be transacted at regular meetings may be likewise transacted and considered at such adjourned meetings.

Special meetings may be called whenever in the opinion of the mayor or city manager, or any two (2) commissioners, the welfare of the city demands it, the mayor or city recorder shall call such special meetings of the board of commissioners upon at least twelve (12) hours written notice to each commissioner, the city manager and city attorney, served personally or left at his usual place of residence. Each call for a special meeting shall set forth the character of the business to be discussed at such meeting, and no other business shall be considered at such meeting.

At all meetings of the board of commissioners, whether regular or adjourned, or special meetings, the mayor shall preside, or, in his absence, the vice mayor shall preside. At all meetings a majority of the members present shall constitute a quorum, but a smaller number may adjourn from day to day and may compel the attendance of absentees in such manner and under such penalties as the board may provide.

The mayor shall have the right to determine the rules and proceedings at the meetings of the board of commissioners, subject to the charter of said City of Clifton, and he may arrest or cause the chief of police, or other police officer, to arrest, and may punish by fine or imprisonment, or both, any member or other person guilty of disorderly or contemptuous conduct and behavior in the presence of the board and the board shall have power and may delegate it to any committee to subpoena witnesses and order the production of all books and papers relating to any subject within its jurisdiction; to call upon its own officers or the chief of police to execute its processes and to arrest and punish by fine and imprisonment, or both, any person refusing to obey such subpoena or order. But no fine for any one (1) offense shall exceed fifty dollars ($50.00) nor shall any imprisonment for any one offense exceed ninety days, but each day's continuance or refusal, as aforesaid, shall be a separate offense. The presiding officer or the chairman of any committee may administer oaths to witnesses and a journal shall be kept of all proceedings and the yeas and nays on all questions shall be entered thereon. (1999 Code, § 1-102)

1-103. Number of commissioners. (1) Pursuant to authority conferred by Tennessee Code Annotated, § 6-20-101, the number of City Commissioners of the City Commission of Clifton, Tennessee, is hereby increased from three (3) members to five (5) members.

(2) At the next regular city election immediately following the adoption of this ordinance, the voters of the City of Clifton shall vote for four (4) commissioners and at the same election, shall also vote the approval or disapproval or this ordinance.

(3) If the majority of the voters of the City of Clifton shall be for approval of the ordinance, the two (2) commissioners receiving the highest number of votes shall hold office for four (4) years and the other two (2) shall hold office for a period of two (2) years.

(4) All persons who are registered voters of the City of Clifton, Tennessee, shall be entitled to vote in said election. (1999 Code, § 1-103)

CHAPTER 2

MAYOR[1]

SECTION

1-201. Powers and duties. The mayor shall preside at all meetings of the board of commissioners, sign the journal of the board and all ordinances on their final passage, execute all deeds, bonds, and contracts made in the name of the city, and perform all acts that may be required of him by the charter, and any ordinances duly enacted by the board of commissioners, consistent with the charter. (1999 Code, § 1-201)

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

CHAPTER 3

CITY MANAGER[1]

SECTION

1-301. Powers and duties. The city manager shall be the chief administrative officer of the city and shall exercise such authority and control over law and ordinance violations, departments, officers and employees, and city purchases and expenditures as the charter prescribes, and shall perform all other duties required of him pursuant to the charter. (1999 Code, § 1-301)

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[1]Charter references

Administrative head of city: § 6-21-107.

Appointment and removal of officers and employees: §§ 6-21-102, 6-21-108, 6-21-401, 6-21-601, 6-21-701 and 6-21-704, 6-22-101.

General and specific administrative powers: § 6-21-108.

School administration: § 6-21-801.

Supervision of departments: § 6-21-303.

CHAPTER 4

RECORDER[1]

SECTION

1-401. To keep record of business, etc. The recorder shall keep a full and accurate record of all business transacted by the board of commissioners and shall preserve the original copy of all ordinances in a separate ordinance book. (1999 Code, § 1-401)

1-402. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of commissioners, the city manager, and the city which are assigned him. He shall also have custody of, and be responsible for, maintaining all corporate bonds, records, and papers of the city. (1999 Code, § 1-402)

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[1]Charter references
Duties and powers: §§ 6-21-401 through 6-21-405.
Recorder as treasurer: § 6-22-119.

CHAPTER 5

CODE OF ETHICS

SECTION

1-501. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #211, Nov. 2006)

1-502. Definition of "personal interest." (1) For purposes of §§ 1-503 and 1-504, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #211, Nov. 2006)

1-503. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the

meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (Ord. #211, Nov. 2006)

1-504. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #211, Nov. 2006)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #211, Nov. 2006)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #211, Nov. 2006)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contact or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #211, Nov. 2006)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of municipality. (Ord. #211, Nov. 2006)

1-509. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #211, Nov. 2006)

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

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this charter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and 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 that the governing body hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint 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. (Ord. #211, Nov. 2006)

1-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #211, Nov. 2006)

CHAPTER 6

PUBLIC INSPECTION OF, ACCESS TO, AND DUPLICATION OF PUBLIC RECORDS

SECTION

1-601. Procedures regarding access to an inspection of public records. (1) Consistent with the Public Records Act of the State of Tennessee, personnel of the City of Clifton shall provide full access and assistance in a timely and efficient manner to Tennessee residents who request access to public documents.

(2) Employees of the City of Clifton shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of the city recorder or designee. All copying of public records must be performed by employees of the city, or, in the event that city personnel are unable to copy the records, by an entity or person designated by the city recorder.

(3) To prevent excessive disruptions of the work, essential functions, and duties of employees of the City of Clifton, persons requesting inspection and/or copying of public records are requested to complete a records request form to be furnished by the city. If the requesting party refuses to complete a request form, a city employee shall complete the form with the information provided by the requesting party. Persons requesting access to open public records shall describe the records with specificity so that the records may be located and made available for public inspection or duplication, as provided in subsection (2) above. All requests for public records shall be directed to the city recorder.

(4) When records are requested for inspection or copying, the city recorder has up to seven (7) business days to determine whether the city can retrieve the records requested and whether the requested records contain any confidential information, and the estimated charge for copying based upon the number of copies and amount of time required. Within seven (7) business days of a request for records the city recorder shall:

(a) Produce the records requested;

(b) Deny the records in writing, giving explanation for denial; or

(c) In the case of voluminous requests, provide, in writing, the requester with an estimated time frame for production and an estimation of duplication costs.

(5) There is no charge assessed to a requester for inspecting a public record. Charges for physical copies of records, in accordance with the Office of Open Records Counsel (OORC) schedule of reasonable charges, are as follows:

(a) Standard 8 1/2 x 11 or 8 1/2 x 14 black and white copy - fifteen cents ($.15) per page for each produced.

(b) Standard 8 1/2 x 11 or 8 1/2 x14 color copy- fifteen cents ($.15) per page for each produced.

(c) Accident reports - fifteen cents ($.15) per page for each standard 8 1/2 x 11 or 8 1/2 x14 black and white copy produced.

(d) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual costs to the city.

(6) Requests requiring less than one (1) hour of municipal employee labor for research, retrieval, redaction and duplication will not result in an assessment of labor charges to the requester. Employee labor in excess of one (1) hour may be charged to the requester, in addition to the cost per copy, as provided in subsection (5). The city may require payment in advance of producing any request. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour.

(a) For a request requiring more than one (1) employee to complete, labor charges will be assessed based on the following formula: In calculating the charge for labor, a department head shall determine the number of hours each employee spent producing a request. The department head shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The department head will then multiply total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the department head will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

(2) When the total number of requests made by a requester within a calendar month exceeds four (4), the requests will be aggregated, and the requester shall charge a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requester that the aggregation limit has been met. Request for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month, shall not be counted in the aggregated requests.

(7) If the city is assessed a charge to retrieve the requested records from archives or any other entity having possession of requested records, the city recorder may assess the requester the cost assessed to the city.

(8) Upon completion of a records request the requester may pick up the copies of records at the office of the city recorder. Alternatively, the requester

may choose to have the copies of records delivered via United States Postal Service; provided that the requester pays all related expenses in advance.

(9) The police chief shall maintain in his office records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in the office of the city recorder. Requests for personnel records, other than for undercover investigators, shall be made to the city recorder, who shall promptly notify the police chief of such request. The police chief shall make the final determination as to the release of the information requested. In the event that the police chief refuses to release the information, he/she shall provide a written explanation of his reasons for not releasing the information.

(10) If the public records requested are frail due to age or other conditions, and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection. (Ord. #259, March 2017)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

CHAPTER 1

BOARD OF ZONING APPEALS[1]

SECTION

2-101. Creation. The Board of Zoning Appeals of Clifton, Tennessee, is hereby created and established as authorized by Tennessee Code Annotated, §§ 13-7-205, 13-7-206, and 13-7-207. (1999 Code, § 2-101)

2-102. Membership. The municipal planning commission shall serve as the members of the board of zoning appeals. It consist of five (5) members. One (1) of the members shall be the Mayor of Clifton or his designee. One (1) shall be a member of the board of commissioners selected by the board, and the three (3) remaining members shall be citizens appointed by the mayor. The terms of the appointive members shall be for three (3) years, and shall coincide with the terms of the planning commission appointments. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall have the authority to remove any appointive member at his pleasure. The term of the mayor and the member selected from the board of commissioners shall run concurrently with their terms of office. All members of the board shall serve without compensation. (1999 Code, § 2-102)

2-103. Organization, rules, staff and finances. The board of zoning appeals offices shall be the same as the planning commission appointive members. The term of the chairman shall be for one (1) year, with eligibility for reelection. The board shall adopt rules for its transactions, findings and

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[1]Municipal code reference
Sign regulations: Title 14.

determination, which record shall be a public record. The board may appoint such employees and staff as it may deem necessary for its work and may contract with city planners and other consultants for such services as it may require. The expenditures of the board, exclusive of gifts, shall be within the amounts appropriated for the purpose by the board of commissioners. (1999 Code, § 2-103)

2-104. Powers and duties. From and after the time when the board of zoning appeals shall have organized and selected its officers, together with the adoption of its rules of procedure, then said board shall have all the powers, duties and responsibilities as set forth in Tennessee Code Annotated, title 13. (1999 Code, § 2-104)

CHAPTER 2

HISTORIC DISTRICT ZONING COMMISSION[1]

SECTION

2-201. Creation and appointment. In accordance with Tennessee Code Annotated, § 13-7-401 a historic district zoning commission is hereby established.

The Clifton City Commissioners shall create a five (5) member historic district zoning commission which shall consist of a representative of a local patriotic or historic organization; an architect, if available; a member of the planning commission, at the time of this appointment; and the remaining members shall be appointed from the community in general. Historic district zoning commission members shall be appointed by the mayor, subject to confirmation by the city commissioners. Appointments to membership on the historic district zoning commission shall be arranged so that the term of one (1) member shall expire each year and his/her successor shall be appointed in like manner in terms of five (5) years. All members shall elect a chairman from among themselves to preside over meetings (see the official by-laws of the historic district zoning commission, 1997). (1999 Code, §2-201)

2-202. Procedure. A schedule of meetings of the historic zoning commission shall be established by the commission, or meetings may be held at the call of the chairman or by the majority of the membership three out of five (3 out of 5). All meetings of the commission shall be open to the public. The commission shall give notice of the place, date, and time of any public hearings which they hold under the provisions of this chapter, through publication in an official newspaper or a newspaper of general circulation at last three (3) days immediately prior thereto. At least three (3) members of the commission shall constitute a quorum for the transaction of its business. The concurring vote of three (3) members of the commission shall constitute final action of the commission on any matter before it. The commission shall keep minutes of its

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[1]Municipal code reference
Historic zoning regulations: Title 14.

procedures showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact. The minutes shall be prepared by the secretary of the commission and filed in the Official Journal of Proceedings for the City of Clifton, and kept for public reading. (1999 Code, § 2-202)

2-203. Powers and duties. The historic district zoning commission shall have the following powers:

(1) To request detailed construction plans and related data pertinent to thorough review of any proposal before the commission.

(2) The historic district zoning commission shall within thirty (30) days following availability of sufficient data, direct the granting of an application with or without conditions (by the issuance of the certificate of appropriateness) or direct the refusal of an application providing the grounds for refusal are stated in writing.

(3) Upon review of the application for approval of an application, the commission shall give prime consideration to:

(a) Historic and/or architectural value of present structure;

(b) The relationship of exterior architectural features of such structures to the rest of the structures of the surrounding area;

(c) The general compatibility of exterior design, arrangement, texture and materials proposed to be used;

(d) To any other factor, including aesthetics, which is deemed pertinent. (1999 Code, §2-203)

2-204. Additional powers and duties. The general compatibility of exterior design, arrangement, texture, and material of the building or other structure in question and the relation of such factors to similar features of buildings in the immediate surroundings. However, the historic district zoning commission shall not consider interior arrangement or design, nor shall it make any requirements except for the purpose of preventing extensions incongruous to the historic aspects of the surroundings. (1999 Code, § 2-204)

2-205. Liability of members. Any commission member acting within the powers granted by this chapter is relieved from all personal liability for any damage and shall be held harmless by the city government. Any suit brought against any member of the commission shall be defended by a legal representative furnished by the city government until the termination of the procedure. (1999 Code, § 2-205)

2-206. Jurisdiction. The commission shall have exclusive jurisdiction relating to historic matters. Anyone who may be aggrieved by any final order or judgment may have review by the courts by the procedures of statutory certiorari as provided for in the Tennessee Code Annotated, §§ 27-9-102 and 27-9-103. (1999 Code, § 2-206)

2-207. Conflict of interest. Any member of the commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of said commission shall be disqualified from participating in the discussion, decision, or proceedings of the commission therewith. (1999 Code, § 2-207)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

CITY JUDGE

SECTION

3-101. Qualifications. The city judge shall be a licensed attorney, at least twenty-one (21) years of age, shall be a resident of the City of Clifton, and shall be a person of good moral character and of a sound judicial temperament,

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[1]Charter references

For provisions of the charter governing the city judge and city court operations, see Tennessee Code Annotated, title 6, chapter 21, part 5. For specific charter provisions in part 5 related to the following subjects, see the sections indicated:

- City judge:
  - Appointment and term: § 6-21-501.
  - Jurisdiction: § 6-21-501.
  - Qualifications: § 6-21-501.
- City court operations:
  - Appeals from judgment: § 6-21-508.
  - Appearance bonds: § 6-21-505.
  - Arrest warrants: § 6-21-504.
  - Docket maintenance: § 6-21-503.
  - Fines and costs:
    - Amounts: §§ 6-21-502, 6-21-507.
    - Collection: § 6-21-507.
    - Disposition: § 6-21-506.

and one learned in the law, though not necessarily professionally trained. (1999 Code, § 3-101, modified)

3-102. Term. The city judge shall serve at the will of the Board of Commissioners of the City of Clifton. (1999 Code, § 3-102)

3-103. Compensation. The city judge shall be paid an annual salary as determined by the board of commissioners. (1999 Code, § 3-103)

3-104. Powers. The powers of such city judge shall be those set out and defined in Tennessee Code Annotated, § 6-21-501 and other applicable provisions of our public laws. (1999 Code, § 3-104)

CHAPTER 2

BILL OF COST

SECTION

3-201. Bill of cost. Pursuant to the authority of Tennessee Code Annotated, §§ 6-21-507 and 16-18-304, be it ordained by the Board of Commissioners of the City of Clifton, that the following bill of cost, being similar or comparable to the same amounts, and for some of the same items allowed in general sessions courts for similar work in state cases, be and is hereby unanimously adopted this the ____ Day of _____ 2003.

(1) In all cases heard and determined by him, the city judge shall impose court costs in the amount of thirteen dollars ($13.00).

In addition, pursuant to authority granted in Tennessee Code Annotated, § 67-4-601, the court shall levy a local litigation tax in the amount of thirteen dollars and seventy-five cents ($13.75) in all cases on which state litigation tax is levied.

(2) Funding for continued education and training shall be established by placing a fee of seven dollars and fifty cents ($7.50) for education/training on each citation or warrant process through the Municipal Court System of the City of Clifton.

(3) The Clifton Police Department shall implement a formal personnel development program designed to further the employee's professional growth and increase his/her capabilities in his/her present and/or future while employed with the City of Clifton.

(4) Continued education/training revenue funds will accumulate through the fiscal year with the following limitations:

(a) All funds accumulated over two thousand eight hundred dollars ($2,800.00) will be transferred into the general account.

(b) Accumulated funds may be carried from one (1) fiscal year to the next.

(5) Funding for a court docket data processing system, shall be established by placing a fee of five dollars ($5.00) on each citation or warrant processed through the Municipal Court System of the City of Clifton.

(6) Court docket data processing funds will accumulate through the fiscal year with the following limitations:

(a) All funds accumulated will be used to purchase and pay annual support fees for a computerized court docket system.

(b) Accumulated funds may not be carried from one (1) fiscal year to the next. All accumulated funds at the end of each fiscal year shall be transferred into the general account.

(7) Funding for a driver education program shall be established by placing a two dollars and fifty cents ($2.50) fee on each citation or warrant processed through the Municipal Court System of the City of Clifton.

(8) A driver education program shall be implemented to educate first time traffic violators about the hazards of traffic violations and laws that govern our roads.

(a) All funds accumulated will be used to purchase materials and offset the cost of equipment for a driver education program.

(b) Accumulated funds may be carried from one (1) fiscal year to the next.

(c) Accumulated funds shall at no time exceed three thousand dollars ($3,000.00). Any funds accumulated in excess of three thousand dollars ($3,000.00) shall be transferred into the general account. (1999 Code, § 3-201, modified)

3-202. Municipal court charges. Criminal Class C misdemeanors of Tennessee Code Annotated and Motor Vehicle Laws of Tennessee Code Annotated are hereby adopted, and individuals in violation thereof, while in the jurisdiction of the City of Clifton, Tennessee, shall be charged with such violations and cited into the Clifton City Court to answer such charge or violation with penalties to be impose in accordance with the jurisdiction of said court.[1] (Ord. #207, March 2006)

3-203. Unpaid fines. The city is hereby authorized to solicit and use the services of a collection agency to collect unpaid fines.

The contract with such collection agency shall be in writing and conform to all provisions set forth in Tennessee Code Annotated, § 40-24-105(d).

The contract with such collection agency may also include the collection of unpaid parking fines as provided in Tennessee Code Annotated, § 6-54-513, after notices required by law are mailed to registered vehicle owners. (Ord. #236, May 2012)

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[1]A complete list of misdemeanors and motor vehicle laws, as amended, are available in the office of the recorder.

CHAPTER 3

DRIVER EDUCATION AND TRAINING PROGRAM

SECTION

3-301. Driver education and training program. (1) In an effort to comply with Tennessee Code Annotated, the City of Clifton is adopting Tennessee Code Annotated, § 55-10-301 in its entirety.

(2) With the passage of this chapter the Clifton Police Department will conduct a driver education and training program authorized by the State of Tennessee. This program will accept traffic violators sentenced to driving school by an authorized court of law established within the State of Tennessee. (1999 Code, § 3-301, modified)

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 the City of Clifton, Tennessee, to extend at the earliest date, to employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1999 Code, § 4-101)

4-102. Necessary agreements to be executed. The Mayor of the City of Clifton, Tennessee, is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age and survivors insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1999 Code, § 4-102)

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

and shall be paid over to the state or federal agency designated by said laws or regulations. (1999 Code, § 4-103)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions; which shall be paid over to the state or federal agency designated by said laws or regulations. (1999 Code, § 4-104)

4-105. Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1999 Code, § 4-105)

4-106. Exclusion. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city. (1999 Code, § 4-106)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-201. Title. This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of City of Clifton. (Ord. #239, March 2013)

4-202. Purpose. The board of commissioners in electing to established program plan will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees, shall:

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

(a) Top management commitment and employee involvement;

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

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

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

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

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (Ord. #239, March 2013)

4-203. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Clifton shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #239, March 2013)

4-204. Standards authorized. The occupational safety and health standards adopted by the City of Clifton are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972. [1] (Ord. #239, March 2013)

4-205. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, "Variances from Occupational Safety and Health Standards," chapter 0800-01-02, as authorized by Tennessee Code Annotated , title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #239, March 2013)

4-206. Administration. For the purposes of this chapter, the city manager 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

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[1]State law reference

Tennessee Code Annotated, title 50, chapter 5.

operation[1] 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. (Ord. #239, March 2013)

4-207. Funding the program plan. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the board of commissioners. (Ord. #239, March 2013)

[1]The occupational safety and health program plan is included in this municipal code as Appendix A.

CHAPTER 3

PERSONNEL SYSTEM[1]

[1]Personnel rules and regulations, and any amendments, are available in the office of the city recorder.

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

REAL AND PERSONAL PROPERTY TAXES[2]

SECTION

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[1]Charter reference

Finance and taxation: title 6, chapter 22.

[2]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. 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.

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

5-101. When due and payable.[1] Taxes levied by the city against real and personal property shall become due and payable annually on the first day of November of the year for which levied. (1999 Code, § 5-101)

5-102. When delinquent--penalty and interest.[2] All real property taxes shall become delinquent on and after the thirty-first day of December next after they become due and payable, and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the charter.[3] (1999 Code, § 5-102)

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[1]Charter references

Tennessee Code Annotated, § 6-22-110 sets the due date of November 1 of the year for which the taxes are assessed, but Tennessee Code Annotated, § 6-22-113 provides that a different tax due date may be set by ordinance (by unanimous vote of the board of commissioners.)

[2]Charter references

Tennessee Code Annotated, § 6-22-112 sets the tax delinquency of December 1 of the year for which the taxes are assessed, but Tennessee Code Annotated, § 6-22-113 provides that a different delinquent date may be set by ordinance (by unanimous vote of the board of commissioners).

[3]Charter reference

Tennessee Code Annotated, § 6-22-114 directs the finance director to turn over the collection of delinquent property taxes to the county trustee.

State law reference

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

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

CHAPTER 2

PRIVILEGE TAXES

SECTION

5-201. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (1999 Code, § 5-201)

5-202. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the city manager or his designee to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1999 Code, § 5-202)

CHAPTER 3

WHOLESALE BEER TAX

SECTION
5-301. Tax levied.

5-301. Tax levied. There is imposed on the sale of beer at wholesale within the City of Clifton a tax of seventeen percent (17%) of the wholesale price. Every wholesaler, on or before the twentieth day of each month, based on wholesale sales in the preceding calendar month, shall remit to the Recorder of the City of Clifton the amount of the net tax on his wholesale sales to retailers and other persons within the corporate limits of said municipality. For the purpose of this section all sales made by wholesalers at their places of business shall be deemed to be wholesale sales and the tax herein imposed shall be collected on all such sales. The tax collected on any such sales made to licensed retailers whose places of business are located in the City of Clifton shall be paid to the Recorder of the City of Clifton. For the purpose of calculating the tax, the wholesale price shall not include the amount charged as a deposit on returnable bottles, or kegs, provided such deposit does not exceed the actual value of the bottles, kegs, or cases to be returned. The amount of tax shall be taken to the nearest whole cent per case, keg, or carton. One-half of one per cent (1/2 of 1%) of the gross tax shall be remitted at the same time to the Department of Revenue of the State of Tennessee, to be kept, in a special fund and to be used only for expenses of the department in the administration of the so-called Wholesale Beer Tax Act. Three percent (3%) of the gross tax shall be retained by the wholesaler to defray the cost of collecting and remitting the tax.

Each wholesaler doing business within the City of Clifton shall maintain a wholesale price list, and shall file same with the Recorder of the City of Clifton. Notice of any change in such price list shall be delivered to such city recorder.

Each wholesaler doing business within the City of Clifton shall fully comply with all rules and regulations and keep and maintain all records and submit any and whatever reports are required by the Department of Revenue of the State of Tennessee, under the so-called Wholesale Beer Tax Act, Tennessee Code Annotated, title 57, chapter 6, as amended. (1999 Code, § 5-301)

CHAPTER 4

PURCHASING REGULATIONS

SECTION

5-401. Purchases not exceeding $10,000.00. The city manager is authorized to make the following purchases whose estimated costs do not exceed ten thousand dollars ($10,000.00) without formal sealed bids and written specifications: commonly used items of material, supplies, equipment, and services used in the ordinary course of maintaining and repairing the city's real or personal property; building or maintaining stocks of city material, supplies and equipment used in the ordinary course of city operations; and minor construction, repair or maintenance services. However a record of all such purchases shall be maintained describing the material, supplies, equipment or service purchased, the person or business from whom it was purchased, the date it was purchased, the purchase cost, and any other information from which the general public can easily determine the full details of the purchase. Each purchase shall be supported by invoices and/or receipts and any other appropriate documentation signed by the person receiving payment. (1999 Code, § 5-401)

5-402. Purchases in excess of $10,000.00. The city manager is required to make purchases in excess of ten thousand dollars ($10,000.00) based on written specifications, awarded by written contract let to the lowest responsive and responsible bidder following advertisement for, and the submission of, sealed bids. (1999 Code, § 5-402)

5-403. Exceptions to bidding requirement. The city manager is authorized to make the following purchases whose estimated cost is in excess of ten thousand dollars ($10,000.00) without written specification or bid.

(1) Emergency purchases of material, supplies, equipment, or services. However, a report of the emergency purchase, including the nature of the emergency, the materials, supplies, equipment, or services purchased, and the appropriate documentation similar to that required under the first subsection above shall be filed with the city commission at its next regular meeting.

(2) Purchases which can be made only from a sole source. The minimum geography for determining the "sole source" shall be the municipal limits. However, the city manager shall have the discretion to enlarge the geography of the sole source of whatever extent he determines is in the economic interest of the city. However, a full report of the purchase, including a full

description of the purchase, evidence that the purchase was made legitimately a sole source purchase, and from whom the purchase will be made shall be filed with the city commission at its regular meeting prior to purchase. (1999 Code, § 5-403, modified)

TITLE 6

LAW ENFORCEMENT

CHAPTER
1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST[1]

SECTION
6-101. Police officers to preserve law and order, etc.
6-102. When police officers to make arrests.
6-103. Disposition of persons arrested.

6-101. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the city and enforce all local, state and federal laws. (1999 Code, § 6-101)

6-102. When police officers to make arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person may be made by a police officer in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has probable cause to believe the person has committed it. (1999 Code, § 6-102)

6-103. Disposition of persons arrested. 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. (1999 Code, § 6-103)

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[1]Municipal code reference
Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 4.

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER

CHAPTER 1

FIRE CODE[1]

SECTION

7-101. Fire code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,[2] 2015 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the fire code. Said fire code is shall be controlling within the corporate limits.

7-102. Enforcement. The fire 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.

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

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

7-103. 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.

7-104. Variances. The chief of the fire department may recommend to the board commissioners variances from the provisions of the fire 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 commissioners.

7-105. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

7-106. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the fire code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

FIRE DEPARTMENT[1]

SECTION

7-201. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of commissioners. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief and such number of subordinate officers and firemen as the board of commissioners shall appoint.

7-202. Objectives. The fire department shall have as its objectives:

(1) To prevent uncontrolled fires from starting.

(2) To prevent the loss of life and property because of fires.

(3) To confine fires to their places of origin.

(4) To extinguish uncontrolled fires.

(5) To prevent loss of life from asphyxiation or drowning.

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

7-203. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department, under the direction of the board of commissioners.

7-204. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those

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[1]Municipal code reference

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

matters to the mayor as the mayor requires. The chief shall submit a report on those matters to the mayor or the board of commissioners as they may require.

All personnel of the fire department shall receive compensation for their services as prescribed by the board of commissioners.

7-205. Tenure and compensation of members. The chief shall have the authority to suspend any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor. The chief and fire department personnel shall be dismissed only in accordance with charter provisions and personnel policies adopted by the board of commissioners.

7-206. 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 commissioners.

7-207. 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 commerce and 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.

CHAPTER 3

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-301. Fire service outside city limits. The board shall have full power and authority to authorize the use of the city's's fire-fighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

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

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

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

(a) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance.

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

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

without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER

CHAPTER 1

BEER

SECTION

8-101. Beer board established. There is hereby established a beer board to be composed of the board of commissioners. The mayor shall be the chairman of the beer board. (1999 Code, § 8-101)

8-102. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city

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

hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1999 Code, § 8-102)

8-103. Record of beer board proceedings to be kept. The recorder, or other designated individual, shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1999 Code, § 8-103)

8-104. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1999 Code, § 8-104)

8-105. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate, supervise, and control the issuance, suspension, and revocation of permits to sell, store for sale, distribute for sale, and manufacture beer within this municipality in accordance with the provisions of this chapter. (1999 Code, § 8-105)

8-106. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101.

8-107. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars ($250.00). Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (1999 Code, § 8-107)

A permit shall be valid only for the owner to whom the permit is issued and cannot be transferred to another owner. A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business, or change in the business's name; provided, that not withstanding the failure to return a beer permit, a permit

shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name. (1999 Code, § 8-107)

8-108. Application requirements. Applications for such permits shall be made with the city recorder on a form provided by the city. Said form shall be signed by the applicant, if an individual, or by oath or affidavit if a corporation, and shall, at a minimum, contain the following information:

(1) The name, age, and address of the applicant in the case of an individual; in the case of a partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and if a majority interest of the stock of such corporation is owned by one person or his nominee, the name of such person.

(2) The character of business of the applicant and in the case of a corporation, the objects for which it was formed, including a statement indicating what type or classification of permit desired.

(3) The length of time said applicant has been in business of that character, or in the case of a corporation, the date when its charter was issued.

(4) The location and description of the premises or place of business which is to be operated under such license.

(5) A statement whether the applicant has made application to the city for a similar or other license on premises other than described in this application, and the disposition of such application.

(6) A statement that neither the applicant nor any persons employed by him in such business shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years.

(7) A statement whether the person so applying will conduct the business in person or whether he is acting as agent for any other person, firm, corporation, syndicate, association, or joint-stock company.

(8) Whether a previous license by any county or municipality of the state has been revoked, and the reason therefor.

(9) A statement that no sale shall be made to minors.

(10) A statement that the applicant will not violate any of the laws of the State of Tennessee, or of the United States, or any ordinance of the City of Clifton in the conduct of his place of business, or knowingly allow any employee or agent of his to do so.

Any person making false statement in said application shall forfeit his permit and shall not be eligible to obtain another permit for a period of ten (10) years.

Applicants are responsible for any investigative background fees required for permitting purposes. (1999 Code, § 8-108, as amended by Ord. #220, Oct. 2009)

8-109. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars ($100.00). The city shall notify each permit holder by December 1, of each year of the tax due date. 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 or before January 31, to the City of Clifton, Tennessee. If the tax is not paid by January 31, the city may take all action necessary to collect the tax as provided by Tennessee Code Annotated, § 57-5-104(3), including permit revocation or imposition of a civil penalty.

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. (1999 Code, § 8-109)

8-110. Beer permits–types of permits. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing.

Permits for the retail sale of beer shall be of two (2) types:

(1) On-premise permits. On-premise permits shall be issued for the consumption of beer on the premises in accordance with the provisions of this chapter and any other restrictions required by the beer board.

(2) Off-premise permits. Off-premise permits shall be issued for the sale of beer for consumption off the business premises in accordance with the provisions of this chapter and any other restrictions required by the beer board.

A business desiring to sell beer for both on-premise and off-premise consumption shall indicate such on the permit application and the beer board may issue a single permit for such an operation. If a holder of a beer permit for either on-premises or off-premises consumption desires to change the permit holder's method of sale, the permit holder shall apply, at no cost, to the beer board for an amended permit.

It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1999 Code, § 8-110)

8-111. Classification of on-premise permits. Permits for the sale of beer for on-premise consumption shall be issued according to the following classes:

(1) Restaurant. Restaurant shall mean any business establishment whose primary business is the sale of prepared food. A restaurant as so defined shall be a public place kept, used, maintained, advertised and held out to the

public as a place where meals are actually and regularly served, and such place being provided with adequate dining room equipment and a separate room dedicated to food preparation containing commercial grade cooking equipment including at a minimum a stove/oven, grill and refrigerator/freezer and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. Said restaurant shall serve at least two (2) meals per day, five (5) days a week or derive at least fifty percent (50%) of its gross sales from the sale of food and non-alcoholic beverages.

(2) Tavern. Tavern shall mean a business establishment whose primary business is or is to be the sale of beer to be consumed on the premises or otherwise does not meet the definition of a restaurant or private club.

(3) Non-profit club. Non-profit club shall mean a nonprofit association organized and existing under the laws of the State of Tennessee consisting of members regularly paying dues, organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which insures to the benefit of any shareholder or member; and owing, hiring or leasing a building or space therein for the reasonable use of its members; provided that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of beer or other permitted alcoholic beverages beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body out of the general revenue of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder.

(4) Private club. Private club shall mean a for-profit club organized and existing under the laws of the State of Tennessee which has at least twenty-five (25) members regularly paying dues of at least one dollar ($1.00) per year. Said club shall own, hire or lease a building or space therein for the exclusive use of its members and their guests, as defined and authorized in the club's written membership policy; provided that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of beer or other permitted alcoholic beverage beyond the amount of such salary as may be fixed by its members or shareholders at an annual meeting or by its owner out of the general revenue of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. Such club shall not discriminate against any patron or potential member on the basis of gender, race, religion or national origin.

Permits shall be valid only for a single location and cannot be transferred to another location. An on-premise consumption permit shall be valid for all decks, patios, docks, and other outdoor serving areas that are operated by the business, unless otherwise restricted by the beer board at the time of permit issuance. (1999 Code, § 8-111)

8-112. Temporary permits. Temporary beer permits may be issued at the request of an applicant upon the same terms and conditions governing permanent permits. Temporary permits shall be issued as one (1) of two (2) types:

(1) A single event permit. A single event permit shall be valid for a maximum of thirty (30) days, with the actual number of days to be determined by the beer board based upon the information provided by the applicant.

(2) A multiple event permit. A multiple event permit may be issued for a fixed number of events during a calendar year. The exact dates and locations of each event must be approved by the beer board at the time of issuance of the permit, or if exact dates are not known at the time of permit issuance, subsequent approval at a future beer board meeting must be obtained prior to the event.

If the events covered by a temporary permit will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the temporary permit application. Such a temporary permit shall not allow the sale, storage or manufacture of beer on publicly owned property unless said applicant is a bona fide charitable or nonprofit organization and can show that the owner of the publicly owned property approves of the permit application. The beer board is authorized to place any and all restrictions it deems necessary on temporary permits, including but not limited to restricted hours of sale and limitations on the number of sale locations/stations. (1999 Code, § 8-112)

8-113. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when the beer board determines that such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. (1999 Code, § 8-113)

8-114. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (1999 Code, § 8-114)

8-115. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(2) For tavern on-premise consumption permits, make or allow any sale of beer between the hours of 2:00 AM and 6:00 AM during any night of the week; and between the hours of 2:00 AM and 11:59 AM on Sunday. Holders of permits for off-premise consumption only, restaurant on-premise consumption, non-profit club and private club on-premise consumption or combination off-premise consumption/restaurant on-premise consumption may make or allow the sale of beer at any time said business is open.

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

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

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

(6) Allow drunk persons to loiter about his premises.

(7) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight unless properly permitted by the state's alcoholic beverage commission.

(8) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1999 Code, § 8-115, as amended by Ord. #213, Aug. 2007)

8-116. Revocation of beer permits. (1) The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked 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.

Where a permit is revoked, no new permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from the date the revocation becomes final and effective. The board, in its discretion, may determine that issuance of a permit before the expiration of one (1) year from the date of revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the permit or any family member who could inherit from such individual under the statute of intestate succession.

(2) No permit or license shall be revoked on the grounds the operator or any person working for the operator sells beer to a minor over the age of eighteen (18) years if such minor exhibits an identification, false or otherwise, indicating the minor's age to be twenty-one (21) or over, if the minor's appearance as to maturity is such that the minor might reasonably be presumed to be of such age and is unknown to such person making the sale. The license

or permit may be suspended for a period not to exceed ten (10) days or a civil penalty up to one thousand five hundred dollars ($1,500.00) may be imposed pursuant to § 8-117.

(3) The action of the beer board in connection with the issuance of any order of any kind, including the revocation or suspension of a permit, imposition of a civil penalty or the refusal to grant a permit under this chapter, may be reviewed by statutory writ of certiorari, with a trial de novo as a substitute for an appeal, the petition of certiorari to be addressed to the circuit or chancery court of Wayne County.

(4) Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (1999 Code, § 8-116, as amended by Ord. #213, Aug. 2007)

8-117. Civil penalty in lieu of 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 tt 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. (Ord. #213, Aug. 2007)

8-118. 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. (Ord. #213, Aug. 2007)

8-119. Violations and penalty. Except as provided in § 8-117, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (1999 Code, § 8-118)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 10

ANIMAL CONTROL

CHAPTER

CHAPTER 1

IN GENERAL

SECTION

10-101. Running at large prohibited. No person owning or having in his or her possession, or under his or her control, any livestock or domestic fowls within the limits of the City of Clifton, or near the corporate limits of such City of Clifton, shall permit or allow the same to run at large upon the streets or alleys of the City of Clifton, or upon the premises of others without the permission of the owner or owners of such premises. (1999 Code, § 10-101)

10-102. Definition. The term "livestock" shall include horses, mares, mules, asses, cows, bulls, calves, sheep, goats and hogs; and the term "domestic fowls" shall include chickens, turkeys, guineas, geese and ducks. But the inclusion of those animals and domestic fowls specified shall not be held to exclude any others of like species or classes. (1999 Code, § 10-102)

10-103. Violation; seizure and disposition. Any person found guilty of violating either of the provisions of this chapter shall be deemed guilty of a misdemeanor, and shall be fined for each offense not less than two dollars and fifty cents ($2.50) and not more than fifty dollars ($50.00); and any animal or fowl found running at large may be taken up, impounded and held by the person designated by the city for such duties until the owner or party in possession or control of same shall have paid any fine and costs assessed against him or her; or such animals and fowls may be sold, killed, or otherwise disposed of to pay reasonable costs of taking up, feeding, watering and otherwise caring for and disposing of such animal or fowl. (1999 Code, § 10-103)

CHAPTER 2

DOGS[1]

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. (1999 Code, § 10-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1999 Code, § 10-202)

10-203. Running at large prohibited. 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. (1999 Code, § 10-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. A violation of this section shall subject the offender to a penalty of fifty dollars ($50.00) for each offense. (1999 Code, § 10-204, modified)

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[1]Wherever this chapter refers to "dogs," it means "dogs and cats."

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. (1999 Code, § 10-205)

10-206. Confinement of dogs suspected of being rabid.[1] 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 or may authorize medical testing procedures to determine if such dog is rabid. (1999 Code, § 10-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of commissioners. If the dog is wearing a tag the owner shall be notified in person, by telephone, or by postcard addressed to his last-known mailing address to appear within seven (7) days and redeem his dog by paying a reasonable fee, in accordance with a fee approved by the board of commissioners. This fee shall be an increasing fee based upon the number of times that the owner has had an animal seized by the city. The fee shall be twenty-five dollars ($25.00) for the first offense and fifty dollars ($50.00) for the second offense. In addition, a daily boarding fee of actual costs of boarding will apply. Animals not claimed by the owner within seven (7) days shall be humanely sold or destroyed. Those individuals appearing in court will be subject to fines and cost as set by the city judge. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within seven (7) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar. (1999 Code, § 10-207, modified)

10-208. Destruction of vicious or infected dogs running at large. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer[2]. (1999 Code, § 10-208)

10-209. Unlawful abandonment. It shall be unlawful to abandon an animal within the City of Clifton. Such abandonment shall carry a fine per dog

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

[2]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).

in accordance with the general penalty provision of this code. (1999 Code, § 10-209, modified)

10-210. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punished under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (1999 Code, § 10-210)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on-premises consumption. (1999 Code, § 11-101)

11-102. Minors in beer places. No minor under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1999 Code, § 11-102)

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[1]Municipal code references
Animals and fowls: title 10.
Residential 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

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1999 Code, § 11-301)

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

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

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar, 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 devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

(i) 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.

(j) 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, unless a permit is issued by the city recorder.

(k) 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, unless a permit is issued by the city recorder.

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address

system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1999 Code, § 11-302)

CHAPTER 3

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-301. Trespassing. (1) On premises open to the public.

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

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

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

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

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

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (1999 Code, § 11-601)

11-302. 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. (1999 Code, § 11-602)

11-303. 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. (1999 Code, § 11-603)

11-304. <u>Interfering with a funeral or burial</u>. No person or group of persons may interfere with a funeral or burial, funeral home viewing of a deceased person, funeral procession, or funeral or memorial service for a deceased person. Any person who does one (1) or more of the following within five hundred feet (500') of a funeral, burial, viewing, funeral procession, or memorial service for a deceased person would commit the offense:

(1) Acts or obstruct or interfere with any such commemorative service;

(2) Makes an offensive utterance, gesture, or display; or

(3) Pickets, protests, or demonstrates at a funeral, funeral procession or memorial service.

For clarification purposes this section prohibits any act or acts designed to obstruct or interfere with a commemorative service by making any utterance, gesture, or display in a manner that would offend an ordinary person. (Ord. #214, May 2008)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

CHAPTER 1

BUILDING PERMIT

SECTION

12-101. Permit required. It shall be unlawful for any person within the city limits of Clifton, Tennessee, to build, erect, construct, improve, or add to or modify any building or structure of any nature, either residential, commercial or otherwise, without first obtaining a permit therefor from the city recorder. Such application for said permit shall identify the location of said construction; and, if within the area defined as property having flood hazards, it shall state the mode of construction and sufficient plans to indicate compliance with the construction techniques and principles as provided by the National Flood Insurance Administration.[1] (1999 Code, § 12-101, modified)

12-102. Compliance required before issuance of permit. The "permit" shall be issued only after thorough examination by the city manager to insure compliance with the flood insurance program. The city manager may request additional plans, specifications and other information as necessary to insure compliance. Failure of the applicant to provide the requested information will result in a denial of the building permit, and the applicant will be restrained from proceeding with construction, pending the issuance of a permit. (1999 Code, § 12-102)

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[1]Municipal code reference
Flood damage prevention ordinance: title 14, chapter 2.

12-103. Permit fee. Any person, corporation or agency desiring a permit shall pay a fee and file an application therefor with the city recorder. Permit fees vary with the estimated size/price of the job per Tennessee building permit regulations. (1999 Code, § 12-103, modified)

12-104. Permit issuance. Upon compliance with the foregoing, the city recorder, upon recommendation of the city manager, shall issue a building permit to the applicant.

(1) No building permit shall be issued by the city recorder, which in the opinion of the city manager:

(a) The proposed use is prohibited by zoning law of the city.

(b) Is in violation of any city ordinance or state law.

(c) Is so located as to be dangerous to the public welfare or materially detrimental to the property or improvements in the immediate vicinity.

(d) If the construction is to be in the flood hazard area, unless specifically approved by the city manager as being in compliance with all construction regulations of TVA and the federal flood insurance program.

(2) The Commissioners of the City of Clifton hereby:

(a) Assures the federal insurance administration that it will enact as necessary, and maintain in force for those areas having flood or mudslide hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in section 1910 of the National Flood Insurance Program Regulations; and

(b) Vests Clifton City Manager with the responsibility, authority, and means to:

(i) Delineate or assist the administration, at his request, in delineating the limits of the areas having special flood (and/or mudslide) hazards on available local maps of sufficient scale to identify the location of building sites.

(ii) Provide such information as the administrator may request concerning present uses and occupancy of the floodplain (and/or mudslide area).

(iii) Cooperate with federal, state, and local agencies and private firms which undertake to study, survey, map, and identify floodplain or mudslide areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or mudslide areas in order to prevent aggravation of existing hazards.

(iv) Submit on the anniversary date of the community's initial eligibility an annual report to the administrator on the progress made during the past year within the community in the development and implementation of floodplain management measures.

(c) Appoints the Clifton City Manager to maintain for public inspection and to furnish upon request a record of elevations (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures located in the special flood hazard areas. If the lowest floor is below grade on one (1) or more sides, the elevation of the floor immediately above must also be recorded.

(d) Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program. (1999 Code, § 12-104)

CHAPTER 2

BUILDING CODE[1]

SECTION

12-201. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,[2] 2015 edition, and all subsequent amendments or additions to the said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the building code.

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

Definitions. Whenever the words "Building Official" are used in the building code, they shall refer to the person designated by the board of commissioners to enforce the provisions of the building code.

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

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter

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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) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

FUEL GAS CODE[1]

SECTION

12-301. Definitions. The following words and phrases shall have the meaning set out below, when used in this chapter.

(1) "Authorized installing agency." Shall be any person, firm, corporation, or contractor, who has complied with this chapter and who has been issued a certificate by the city manager serving as gas inspector, as herein provided, to engage in the work of installing and repairing gas piping appliances, fixtures, and equipment in the City of Clifton, or to any person receiving gas service from the natural gas distribution system of the City of Clifton.

(2) "The Board of Commissioners of the City of Clifton." The governing body of the City of Clifton as established by the Uniform City Manager Charter of said City of Clifton.

(3) "City recorder." The person occupying the position and performing the duties of recorder, as provided by city manager commission charter.

(4) "Consumer." Any person, firm, corporation, or association receiving gas service from the natural gas distribution system of the City of Clifton.

(5) "Gas code." The currently adopted fuel gas code.

(6) "Gas inspector." The City Manager of the City of Clifton or his duly authorized representative or the person designated by the Board of Commissioners of the City of Clifton to make inspection of the consumer gas piping and natural gas pumping facilities.

(7) "Gas system." The natural gas distribution system constructed, owned, and operated by the City of Clifton, Tennessee, including the transmission line from the gate station to the meter facilities at the transmission line of supplier. (1999 Code, § 12-201, modified)

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

12-302. Fuel gas code adopted. (1) The provisions of the International Fuel Gas Code,[1] 2015 edition, are hereby adopted by reference thereto as the official gas code of the City of Clifton, Tennessee, governing such installations with certain additional provisions as herein set out in this chapter.

(2) One (1) copy of said fuel gas code, as published by the International Code Council, described in the preceding section, together with any changes or amendments thereto hereafter made, shall be filed and kept in the office of the city recorder, available for public use, inspection and examination, but said three copies shall not be removed from said office except that the gas inspector shall have the right to remove it for temporary use.

(3) Butane or other commercial gas. Any consumer who, at the time of the adoption of this ordinance, is using butane or propane, or other commercial gas, and whose system is piped with three fourths inch (3/4") pipe or smaller shall, upon converting to natural gas, follow the procedure outlined herein.

A pipe shall be installed from the meter or point of delivery to the range or cooking stove, leaving a T below the floor; from the T a pipe shall be installed to the original point of entry of butane, propane, or other commercial gas system, thus forming a circuit with natural gas feeding in both directions and in addition, such other piping as will supply the proper amount of gas at each outlet as provided by the gas code hereinbefore adopted by reference. (1999 Code, § 12-202, modified)

12-303. Certification/qualifications of an authorized agency.

(1) In order to determine that the provisions of the gas code hereinbefore adopted are fully complied with and that those persons, firms, or corporations engaged in the business of installing gas appliances, systems, facilities, and equipment, are properly qualified to engage in business, the gas inspector as herein defined, shall examine all applicants desiring to engage in such work, and upon being satisfied of the applicant's fitness for such permit, shall issue certificates as hereinafter provided.

(2) All persons, firms, corporations, contractors, or associations desiring to engage in the work or business of installing gas piping, appliances, fixtures, equipment, or gas systems, including the repair and change over of the same, in the City of Clifton, Tennessee, or in or upon the property of any person receiving gas service from the gas system of the City of Clifton shall make application to the gas inspector on such form and in such manner as the gas inspector may determine, under his rules and regulations, and said applicants shall personally appear before the gas inspector to be examined as to their

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

qualifications and ability to operate and engage in such business, and no person, firm, association, or corporation shall engage in such business or install or repair any gas appliances, gas systems, or equipment until such persons, firms, or corporations have been approved by the gas inspector and a certificate issued to the applicant authorizing it to engage in such business. Upon the issuance of such permit, such person, firm, corporation, or association shall be a qualified installing agency as defined and provided by this chapter.

(3) The examination herein provided shall be in the form and manner deemed proper by the gas inspector, under such rules and regulations as may be adopted from time to time by the Board of Commissioners of the City of Clifton, and said applicant shall be examined by the gas inspector to determine the qualifications and abilities, and no person, firm, association, or corporation shall engage in such business until it has been approved by the gas inspector and a certificate issued to it, authorizing the engaging in such business.

(4) The applicant shall furnish satisfactory evidence to the gas inspector that qualified and competent laborers and workmen shall be used by the installing agency in the installation, replacement, or repair of consumer gas piping, or the connection, installation, repair, or servicing of gas appliances, and/or gas burning equipment, and such installing agency shall be responsible for seeing that such work is performed in a safe and workmanlike manner, and up to the standard of the art of this kind of work, and that the same is performed in accordance with good engineering practices, as used by those persons, firms, and/or corporations experienced in such work, and familiar with all the precautions required for utmost safety in such field of work, and that such complies with all provisions of the gas code herein adopted.

(5) Any permit to engage in the work or business of a qualified installing agency, hereinbefore defined, may be revoked by the gas inspector for failure to comply with all city ordinances or with the gas code herein adopted or that may be hereafter adopted by the Board of Commissioners of the City of Clifton, and the rules and regulations governing the installation of servicing and repairing of gas systems, gas burning systems, and equipment, or such certificate may be revoked for allowing or permitting said work to be carried on in an unworkmanlike manner by those employed by or under the supervision of an authorized gas installing agency or by allowing and permitting and using unqualified labor in the performance of work or allowing or permitting the same to be done in a hazardous or dangerous manner or for continued inefficient work by said authorized installing agency.

(6) Each applicant for a certificate to qualify as an installing agency shall pay to the City of Clifton at the office of the city recorder, at the time of making such application, a fee of twenty dollars ($20.00), at the time of renewal of such certificate of an installing agency, there shall be paid to the City of Clifton, a fee of twenty dollars ($20.00). The fee of twenty dollars ($20.00), shall not be refunded in the event the applicant is not granted a certificate as an

installing agency but shall be retained by the City of Clifton to defray the cost of investigation and examination herein provided.

The certificate of an installing agency shall expire on December 31, following the date of issuance, but may be renewed by the holder thereof without further examination or application, provided that the holder is not in violation of any of the rules and regulations of the City of Clifton, and/or its gas inspector and if in the opinion of the gas inspector it is unnecessary to have an examination of the gas installing agency. The board of city commissioners may, however, upon the expiration of any certificate require a new application and examination of any installing agency.

(7) The owner of the business or the senior member or acting head of a firm or corporation engaged in the business of a gas installing agency, shall be considered as the person responsible for all work done by such installing agency, as herein defined and provided for.

(8) No certificate shall be issued to an installing agency by the gas inspector until evidence has been submitted that such installing agency is properly bonded by a corporate surety bond in the penal sum of not less than ten thousand ($10,000.00), and that said corporate surety company be authorized and qualified to do business in the State of Tennessee; such bond shall be payable to the City of Clifton, for its use and benefit and to any citizen or gas consumer, who may be damaged by the failure of such qualified installing agency, to comply strictly with the gas code herein adopted and the ordinances of the City of Clifton with reference thereto, or who may be damaged by any negligence committed, or imperfect or defective work done by such installing agency, or by any person in the employ or under the supervision of such installing agency while acting in the scope and course of their employment. Said bond shall be so conditioned as to require the installing agency to comply with all of the provisions of the city's gas code as herein defined and adopted or any provisions, revisions, amendments, or supplements which might be made or added thereto, from time to time. In such bond the qualified gas installing agency shall indemnify and save harmless the City of Clifton and all persons therein from loss, costs, or damages caused by negligence or inadequate, imperfect, or defective work done by such installing agency or any of its employees. Said bond shall be filed and remain on file with the City Recorder of the City of Clifton.

(9) The bond hereinbefore provided shall contain a provision that the surety company issuing the same shall not cancel the bond without notifying the Recorder of the City of Clifton and the gas inspector as hereinbefore provided. In the event said bond is not renewed at the end of each year, or that the same is cancelled, then immediately the gas inspector, acting upon notice of the city recorder, shall revoke the certificate of such installing agency and shall terminate all of its rights and privileges to engage further in the business of installing agency as hereinbefore defined and until said bond is renewed or a

new bond obtained and filed as herein provided, no new certificate shall be issued to such installing agency.

(10) Every applicant, for a certificate to serve as an authorized installing agency, shall furnish evidence that it or he has obtained a comprehensive general products liability insurance policy with limits of three hundred thousand dollars ($300,000.00) for injury or death of any one (1) person, seven hundred thousand dollars ($700,000.00) for injury or death in any one (1) occurrence, and one hundred thousand dollars ($100,000.00) for damage to property.

The insurance policy hereinbefore provided shall be issued by an insurance company authorized to do business in the State of Tennessee, but shall be subject to approval by the gas inspector and/or the board of city commissioners, and said insurance policy shall at all times as hereinbefore provided be kept on file in the office of the city recorder.

(11) No firm, association, person or corporation shall engage in the work of an installing agency, nor shall any person, firm, association or corporation install in any building of any character in the City of Clifton, or in any building to which gas shall be supplied from the gas system of the City of Clifton, any gas pipe, appliances, or equipment using natural gas, manufactured gas, or liquefied petroleum gas or mixture thereof, unless such person, firm, or corporation holds a valid certificate issued by the gas inspector as hereinbefore provided. The gas inspector or any person designated by him or in his employ, shall not connect the gas piping or system in such building to the gas system, unless the same has been installed by a qualified installing agency as defined and provided for in this chapter, provided however a homeowner can install gas appliances, pipe, and equipment in their own residence, but same must be inspected, tested and approved by the gas inspector before service is commenced.

(12) No property owner shall cause or permit any installation, modification, change to, conversion, or repair of any gas house piping or gas appliances, as hereinabove provided, in the City of Clifton, or in its gas service territory or receiving gas from the gas system of the City of Clifton unless such person, firm, or corporation is a duly qualified installing agency as herein provided and defined, and the fact that such work has been done by other than an authorized installing agency, qualified as herein provided, shall be sufficient to hold and render the property owner responsible for the violation of this chapter and amenable to all provisions of the same.

(13) Penalty. It is hereby declared a misdemeanor and punishable by a fine of not more than five hundred dollars ($500.00) and less than twenty-five dollars ($25.00) and the costs of prosecution, for any person to engage in the business of a gas installing agency, as in this chapter provided, and each day that such agency is engaged in the business of installing and repairing the work contemplated by this chapter shall be deemed a separate offense. Any property owner in violation of the same shall be liable for the same penalties. (1999 Code, § 12-203, modified)

12-304. Permits for installation of gas burning equipment. (1) No installation, modification or change of a natural gas system or gas burning equipment shall be made without first obtaining a permit from the City Recorder of the City of Clifton, which permit shall be countersigned by the gas inspector. Application for such permit shall be made on such forms as may be required by the city recorder and/or the gas inspector.

(2) No permit shall be issued to any person, firm, corporation, or association to make such installation, modification, change, or repair, directly or indirectly, unless such person is a duly qualified gas installing agency as herein provided.

The city recorder and the gas inspector shall act upon all applications for permits within a reasonable time and without unreasonable or unnecessary delay and within a maximum of ten (10) days. Any permit issued shall be construed as a license to proceed with the work and shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions of this chapter or the gas code herein before adopted, nor shall such issuance of a permit prevent the gas inspector or his duly authorized representative, from thereafter requiring correction of errors in the permit or plan submitted with it, or in the construction authorized by the permit.

(3) Upon notice from the gas inspector that work on any gas installation is being done contrary to the provisions of the gas code, or this chapter, or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be given in writing to the owner of the property, or his agent, or to the persons doing the work, or to any person in possession of the premises and shall state the conditions under which the work may be resumed. Where an emergency exists, oral notice to stop work may be given by the gas inspector or his authorized representative, which shall be sufficient, provided that the same be confirmed in writing within a reasonable time.

The gas inspector, the city recorder, and/or the board of city commissioners, may revoke a permit issued under the provisions of this chapter, in case there has been any false statement or representation as to a material fact in the application for the permit or in the plans submitted therewith. (1999 Code, § 12-204)

12-305. Inspection and testing. (1) All installations of gas systems, gas appliances, and all changes or modifications of any existing gas system or additions to any existing gas system or installation of any appliances, shall be inspected by the gas inspector or his designated representative, to insure compliance with the requirements of this chapter, and the gas code hereinbefore adopted by reference and to insure that the installation and construction of the gas system is in accordance with the plans and the permit theretofore issued.

(2) Notification. It shall be the duty of the installing agency to give reasonable notice to the gas inspector when the gas installation is ready for test or inspection. It shall be the duty of the installing agency to make sure that the

work will stand the test prescribed before giving the above notice and to furnish all necessary test equipment, materials, power and labor needed in making the inspection and testing the safety of such installation in accordance with good engineering practices in such field of work. If the gas inspector or his designated representative finds that the work will not pass the test, the installing agency shall be required to make the necessary corrections and the work will be resubmitted for inspection and test.

(3) The gas inspector or his duly authorized representative, or such person as may be designated by the Board of City Commissioners of the City of Clifton, is designated to make the inspection of the gas system as herein provided and to see that all permits herein provided for are properly executed. The gas inspector and his designated representatives are empowered and directed to inspect the installation, modification, or repair of gas piping, gas appliances, fixtures or apparatus now or hereafter to be placed in or in any manner directly attached to any building or store or in any manner connected with the natural gas distribution system of the city. The gas inspector and his assistants or representatives are hereby vested with full authority to enter any building or premises at reasonable times for the purpose of discharging their official duties as defined in this chapter.

(4) After making the inspection, the gas inspector shall notify, either orally or in writing, the installing agency and the owner, his agent or representative, as to whether or not the inspection has been satisfactory. If defects are found in the system, the same shall be specified in the notice and the gas inspector shall refuse to connect the installation to the gas system or to turn on the gas to the premises until the defects have been remedied and it has been determined that the installation complies with the gas code, this chapter, and the rules and regulations of the gas inspector. (1999 Code, § 12-205)

12-306. <u>Meter location and turning on and off of gas</u>. (1) All meters shall be installed on the outside of the building to be served and at such location as may be determined by the gas inspector and shall be such that the meter connections are easily accessible in order that the meter may be read or changed.

No gas meter shall be installed under a step, stairway, window, or near a furnace, boiler, or other appliances.

Under no circumstances shall anyone not employed by the City of Clifton be permitted to open or make connection to the service pipe or service extension, or set or remove the meter or do any work on any part of the natural gas distribution system, including the meter, except that the gas may be turned off at the meter in case a hazardous condition may arise. When the meter has been turned off, the gas inspector shall be immediately notified and after obtaining a permit and the repairs have been made and approved, the meter shall be turned on and service restored, provided, however, that this turning on and off

of the gas may be done only by the gas inspector or any designated representative.

Whenever more than one meter is supplied through one service line, a stopcock shall be installed at each meter inlet, in addition to the service line stop.

(2) It shall be unlawful and a misdemeanor for any person to trespass upon, injure, molest, deface, damage, destroy, or carry away any portion of the natural gas distribution system or for any person to tap or interfere with any gas line or gas pipe, constituting a part of the natural gas distribution system; or for any person to turn on the gas to any premises at any time except as directed by the gas inspector or his duly authorized representative.

It shall be unlawful and a misdemeanor for any person, firm, association or corporation to violate any of the foregoing provisions of this chapter and each days violation shall be considered a separate offense. Upon conviction for the violation of the foregoing provisions of this chapter, the offender or offenders shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) and the cost of the prosecution. (1999 Code, § 12-206)

12-307. Rates and charges. (1) The rate structure for the Clifton Gas System shall be set by resolution as adopted by the Clifton Board of Commissioners.

(2) All charges for gas service shall be paid by the 5th day of the month following that in which service is billed. If not paid by 5:00 P.M. on the 5th day of the month, a penalty of ten percent (10%) of the bill or charge for such service shall be added for late payment. In the event the charges for service are not paid by the 20th day of the month, then service to such consumer shall be discontinued.

If for this or any other reason, because of default of the consumer, or at the request of the consumer, service is discontinued, the consumer shall be charged the sum of twenty-five dollars ($25.00) for the reconnection of the service.

(3) The gas service pipe from the gas main to the point of delivery shall be run and installed by the City of Clifton; the point of delivery shall be the initial junction of the service pipe extending from the property line, nearest the gas main, to the consumer's pipe. Each consumer shall provide for and install his own piping and fixtures from the point of delivery into the premises or building to be served. The City of Clifton shall furnish the meter, meter box, which shall be so placed as directed by the gas inspector and shall be at all times accessible.

The City of Clifton will pay for the gas service pipe from the gas main to the property line. The gas consumer shall pay for all service pipe from the property line to the point of delivery, except as hereinafter stated.

The service pipe, including the regulator and meter, shall be installed by the gas inspector or his representative but the consumer shall pay at such rate

as may be fixed by the gas inspector for the service pipe from the property line to the point of delivery; provided, however, that during the time of the initial construction of the gas distribution system, the City of Clifton will pay for the first one hundred feet (100') of service pipe from the property line to the point of delivery but in no event will the City of Clifton pay for or furnish and install more than one hundred feet (100') and in the event the distance from the property line to the nearest corner of the building to be served is less than one hundred feet (100'), then the lesser of the two (2) distances shall determine the city's obligation. The consumer will pay for all service pipe in excess of one hundred feet (100').

The gas service pipe, the meter, and the meter box shall at all times remain the property of the City of Clifton, and upon the discontinuance of gas service to any premises by reason of the failure to pay the bills by the consumer for gas service, or for any other reason, then the City of Clifton, through the gas inspector or his representative, may remove the meter, regulators, the meter box, and gas service pipe, and the consumer will be charged for the cost of replacing the same in the event service is restored, in accordance with the provisions hereinbefore stated, except that the City of Clifton will furnish the meter without charge.

It is declared unlawful and a misdemeanor for any person to refuse or permit the employees of the City of Clifton to go upon the premises for the purpose of removing the property of the City of Clifton, and upon conviction of this provision, such person shall be fined not less than five dollars ($5.00), nor more than five hundred dollars ($500.00).

(4) There shall be charged to each consumer a connection or tapping charge as herein provided to cover the costs of tapping the gas main, the installation of the service pipe, meter and meter box.

Gas tap fee:

Residential gas tap fee inside city	$500.00
Residential gas tap fee outside city	$650.00

Larger taps based upon the most current utility policies adopted by the board of commissioners.

(5) The following shall be a list of utility service fees for the City of Clifton utilities:

After hours service fee	$25.00
Reconnect fee for non-payment of all city utilities for property owners	$50.00
Reconnect fee for non-payment of all city utilities for renters/lessees	$100.00
Returned check fee	$30.00

Gas turn off fee	$2.00
Meter activation fee	$25.00
Seasonal disconnect fee	$10.00
Utility bill administration fee	$2.00

The board of commissioners may by appropriate rules, regulations, and ordinances, provide such additional charges or increase the charges as herein provided so as to protect the City of Clifton and the gas system from loss.

The charges herein provided shall be paid, as before stated, at the time when service is established to each consumer, and no service shall be established to a consumer until the appropriate charges herein provided have been paid. In the event service is discontinued to any consumer and the charges for such service are not paid, the gas system may collect such bill or bills owing by the consumer by applying the same to the bills; the consumer shall be liable for the difference, and no gas shall be furnished to any person or consumer at that location until and unless the bill is paid in full, except upon order of the board of commissioners.

(6) It is declared unlawful and a misdemeanor for any person to tap, interfere with, or receive gas without the same being metered, and any person, firm, association or corporation tapping any gas main or receiving gas that does not pass through the meter shall, upon conviction, be fined in accordance with the general penalty clause.

It is hereby declared to be unlawful for any person to turn on gas to any premises except the employees of the City of Clifton, the gas inspector, or his duly authorized representative, or any person designated by the board of city commissioners; and any person not so authorized operating any value turning gas on to any premises shall, upon conviction, be fined not less than fifty dollars ($50.00), and the costs of the proceeding. (Ord. #228, Dec. 2010, as amended by Ord. #247, April 2015, modified)

CHAPTER 4

ENERGY CONSERVATION CODE[1]

SECTION

12-401. Energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the design of 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 International Energy Conservation Code,[2] 2015 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the energy code.

12-402. Modifications. The following sections are hereby revised to read as follows:

"Building Official." Whenever in the energy code these words are used, they shall refer to the person designated by the board of commissioners shall have appointed or designated to administer and enforce the provisions of the energy code.

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy code as herein adopted

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[1]Municipal code references
Fire protection: 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) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

CHAPTER 1

OVERGROWN AND DIRTY LOTS

SECTION

13-101. Nuisance declared. It is declared to be a nuisance 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 garbage, trash, litter, or debris, including but not limited to abandoned, wrecked and/or dismantled inoperable vehicles or equipment, 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. Such nuisance may be abated and the cost of the abatement shall be assessed against the owner of the property as stipulated and in the manner prescribed in this chapter. (1999 Code, § 13-101)

13-102. Designation of public officer. The board of commissioners shall designate the city manager to enforce the provisions of this chapter. The city manager at his/her request shall designate one (1) of the city employees to enforce the provisions of this chapter. (1999 Code, § 13-102)

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.
Toilet facilities in beer places: § 8-211(10).

13-103. Notice to property owner. It shall be the duty of the city manager or his/her appointed representative to enforce this section to serve notice upon the owner of record in violation of § 13-101, a notice in plain language to remedy the condition within ten (10) days, (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 in a manner which yields delivery confirmation by the United States Mail, and addressed to the last owner of record. The notice shall contain the following information:

(1) A brief statement that the owner is in violation of title 13, chapter 1 of the City of Clifton Municipal Code, and that the property owner may be issued a citation by the police department if the situation is not rectified;

(2) A copy of title 13, chapter 1 of the City of Clifton Municipal Code;

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

(4) Notice of a summons to municipal court at a particular date and time in the event that the property owner wishes to appeal the decision of the city manager or his/her designee. (1999 Code, § 13-103)

13-104. Failure to comply. 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 persons designated by the board of commissioners to enforce the provisions of this chapter shall immediately cause the police department to issue a citation to the property owner who is in violation of this chapter. (1999 Code, § 13-104)

13-105. Appeal. The owner of record who has been issued a citation for the office mentioned in this chapter may pay the fine and correct the problem or appear in municipal court to state their case before the municipal judge. If the judge determines the property owner to be in violation of this chapter, he/she may levy a fine of up to fifty dollars ($50.00) per offense. The police department may issue subsequent citations for each day that this condition continues to exist. Each citation constitutes a separate offense. (1999 Code, § 13-105)

13-106. Judicial review. Any person aggrieved of the decision levied by the municipal judge may appeal the decision to circuit court by following the guidelines outlined by the Tennessee state law. (1999 Code, § 13-106)

13-107. Supplemental nature of chapter. The provisions of this chapter are in addition and supplemental to, and not in substitution for, any

other provision in the municipal charter, other municipal 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, underbrush and/or the accumulations of garbage, trash, litter, or debris, including but not limited to abandoned, wrecked and/or dismantled inoperable vehicles or equipment, or any combination of the preceding elements. (1999 Code, § 13-107)

CHAPTER 2

SLUM CLEARANCE[1]

SECTION

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of commissioners 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.

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 commissioners charged with governing the city.

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

(4) "Owner" shall mean the holder of 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 prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building official.

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 appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the 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.

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.

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

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

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 a 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 Wayne County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Clifton to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

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

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the 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 Wayne County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of orders. 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 court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final

disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such 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 taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

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.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair 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.

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.

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

MUNICIPAL PLANNING COMMISSION[1]

SECTION

14-101. Membership. The municipal planning commission shall consist of five (5) members. One (1) of the members shall be the Mayor of Clifton or his designee. One (1) shall be a member of the board of commissioners selected by the board, and the three (3) remaining members shall be citizens appointed by the mayor. The terms of the appointive members shall be for three (3) years, excepting that, in the appointment of the first municipal planning commission under the terms of this ordinance, the terms of the three (3) appointive members shall be for one (1), two (2), and three (3) years, respectively, so that the terms of one (1) member shall expire each year. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. The terms of the mayor and the member selected from the board of commissioners shall run concurrently with their terms of office. All members of the commission shall serve without compensation. (1999 Code, § 14-101)

14-102. Organization, rules, staff and finances. The municipal planning commission shall elect its chairman from among its appointive members. The term of the chairman shall be for one (1) year with eligibility for reelection. The commission shall adopt rules for its transactions, findings and

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[1]Ord. #196, May 2004, § 1 provides:

"That pursuant to Tennessee Code Annotated, § 13-4-101 the City of Clifton opts out of any and all annual training for its Planning Commission members."

determinations, which record shall be a public record. The commission may appoint such employees and staff as it may deem necessary for its work and may contract with city planners and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the board of commissioners. (1999 Code, § 14-102)

14-103. Powers and duties. From and after the time when the municipal planning commission shall have organized and selected its officers, together with the adoption of its rules of procedure, then said commission shall have all the powers, duties and responsibilities as set forth in Tennessee Code Annotated, title 13. (1999 Code, § 14-103)

CHAPTER 2

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

14-201. Statutory authorization, findings of fact, and objectives.

(1) Statutory authorization. The General Assembly of the State of Tennessee has in Private Act 1961, Chapter 36, 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 Clifton, Tennessee Board of Commissioners does ordain the following.

(2) Findings of fact. (a) The Clifton mayor and legislative body wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-1-04 edition).

(b) Areas of Clifton 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, flood-proofed, or otherwise unprotected from flood damages.

(2) 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 floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(3) Objectives. The objectives of this ordinance are:

(a) To protect human life, health 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 floodable areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the National Flood Insurance Program.

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" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall not be used for human habitation.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load bearing wall shall be considered new construction (see "new construction").

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(5) "Area of shallow 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.)

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").

(12) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

(13) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(15) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

(16) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(17) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(19) "Existing structures" see "existing construction."

(20) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction or facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(23) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(24) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(25) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flood" or "flooding").

(28) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(29) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(30) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(31) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as

a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(32) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(33) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

(34) "Floodway" mans the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(36) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(37) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(38) "Highest adjacent grade" mean the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(39) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(40) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(41) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(42) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking 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.

(43) "Manufacture home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(44) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the

effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(49) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(50) "North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(51) "100-year flood" see "base flood."

(52) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(53) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(54) "Regulatory floodway" means 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.

(55) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(56) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include

initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency" the Tennessee Department of Economic and Community Development, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the National Flood Insurance Program for the state.

(59) "Structure," for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(61) "Substantial repairs" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial repair or improvement; or

(b) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

(c) 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

(d) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

(64) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

14-203. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of Clifton, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Clifton, Tennessee, Federal Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47117C0135D, 47117C0154D, 47117C0155D, 47117C0156D, 47117C0157D, 47117C0158D, 47117C0159D, 47117C0165D, 47117C0166D, 47117C0167D, 47117C0178D, and 47117C0186D, dated September 28, 2007, 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 Clifton, 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. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Clifton, Tennessee from taking such other lawful actions to prevent or remedy any violation.

(9) Repeal. Any existing ordinance, titled "The Clifton Municipal Flood Damage Prevention Ordinance," is hereby repealed in its entirety and replaced with this new ordinance of the same title.

14-204. Administration. (1) Designation of ordinance administrator. The building inspector 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 BFEs are available, or to 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 flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in § 14-204(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 unnumbered A zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit.

The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

(a) Review of all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning

Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-204(2).

(f) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-204(2).

(g) When flood proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-204(2).

(h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this ordinance.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-204(2).

(j) All records pertaining to the provisions of this ordinance shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

14-205. Provisions for flood hazard reduction. (1) General standards. In all flood prone areas the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings 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; and,

(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.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one 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 and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-205(2).

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-204(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one foot (1') above the level of the base flood elevation.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-204(2).

Buildings located in all A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-204(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the

entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet 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 finish grade; and

(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) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-205(2) of this chapter.

(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, including elevations and anchoring.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one foot (1') above the level of the base flood elevation; or,

(B) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet (3') in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-205(2)(d) of this chapter.

(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 on identified flood hazard sites 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.)

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-203(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 developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-205.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in§ 14-203(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 structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one 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 or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-205(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-203, where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-203, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other

source, in order to administer the provisions of § 14-205. Only if data is not available from these sources, then the following provisions (b) and (c) shall apply.

(b) 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 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.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-205(2), and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard 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 apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-205(2), and "elevated buildings."

(b) All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one foot (1') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to

at least three feet (3') above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in § 14-204(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-203 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-204 and 14-205(1) shall apply.

(8) Standards for unmapped streams. Located within Clifton, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with § 14-204.

14-206. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established to hear and decide appeals and requests for variances from the requirements of this ordinance. The membership of the Clifton Board of Zoning Appeals shall serve as the board of floodplain review.

(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 thereon, which shall be a public record.

Compensation of the members of the board of floodplain review shall be set by the city/town council.

(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 of fifty dollars ($50.00) 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. 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 the 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 Clifton 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 (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(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 facility;

(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, and;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(A) 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.

(B) 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 in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(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 level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

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 Clifton, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

CHAPTER 3

HISTORIC ZONING REGULATIONS[1]

SECTION

14-301. General description. It is the intent of this district to preserve the historic sites and structures of the City of Clifton. The requirements of the district are designed to protect and preserve historic and/or architectural value; create an aesthetic atmosphere; strengthen the economy; protect and enhance the city's attractions to tourists and visitors; strengthen the support and stimulus to business and industry thereby provided; and promote education and patriotic heritage of the present and future citizens of the community. In order to achieve the intent of the H-1 District(s) as shown on the Official Corporate Limits Map of The City of Clifton, Tennessee, the following regulations shall apply:

The H-1 District classification may be created where the following criteria shall be determined to exist by the historic district zoning commission. The quality of significance in American history, architecture, archaeology, and culture is present in district(s), sites, buildings, and structures that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

(1) That are associated with events that have made a significant contribution to the broad patterns of our history; or

(2) That are associated with the lives of persons significant in or past; or

(3) That embody the distinctive characteristics of late 19th- early 20th century period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(4) That have yielded, or may be likely to yield archaeological information; or

(5) That is listed in the National Register of Historic Places. (Ord. #231, April 2011)

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[1]Municipal code reference
Historic district zoning commission: Title 2.
Sign regulations: Title 14.

14-302. Administration. (1) No construction, major alteration or rehabilitation, moving, or demolition is to be carried on within the H-1 District until it is submitted to and receives approval in writing by the historic district zoning commission.

(2) Administration shall be by the chairman of the historic district zoning commission and all items regulated within the H-1 District shall be submitted to the historic district zoning commission for its review.

(3) Application procedures. Upon receiving an application the historic district zoning commission shall, within thirty (30) days following the availability of sufficient date, issue to the applicant a letter stating its approval with or without attached conditions or disapproval with the grounds for disapproval stated in writing. This shall be carried out by the issuance of a certificate of appropriateness signed by the secretary of the historic district zoning commission. All applications and certificates of appropriateness shall be numbered and filed in the city files at city hall. (Ord. #231, April 2011)

14-303. Historic district zoning commission. (1) Creation and appointment. In accordance with the Tennessee Code Annotated, § 13-7-401, a historic district zoning commission is hereby established: The City of Clifton's Board of Commissioners shall create a five (5) member historic district zoning commission which shall consist of a representative of a local patriotic or historic organization; an architect, if available; a member of the planning commission, at the time of this appointment; and the remaining members shall be appointed from the community in general. Historic district zoning commission shall be appointed by the mayor, subject to confirmation by the city board of commissioners. Appointments to membership on the historic district zoning commission shall be arranged so that the term of one (1) member shall expire each year and his/her successor shall be appointed in like manner in terms of five (5) years. All members shall elect a chairman from among themselves to preside over meetings and a secretary who shall record and transcribe the proceedings of each meeting (see the official By-Laws of the Historic District Zoning Commission. 1997 and Amended (December. 1997).

(2) Procedure. Meetings of the historic district zoning commission shall be held at the call of the chairman or by the majority of membership three out of five (3 out of 5). All meetings of the commission shall be open to the public. The commission shall give notice of the place, date, and time of any public hearings which they hold under the provisions of this chapter at least three (3) days immediately prior thereto. At least three (3) members of the commission shall constitute a quorum for the transaction of its business. The concurring vote of three (3) members of the commission shall constitute final action of the commission on any matter before it. The commission shall keep minutes of its procedures showing the vote of each member upon each question; or if absent or failing to vote, indicting such fact. The minutes shall be prepared

by the secretary of the commission and filed with the city recorder and kept for public reading.

(3) Authority and duties. The historic district zoning commission shall have the following authorities:

(a) To request detailed construction plans and related data pertinent to thorough review of any proposal before the commission attached to a historic preservation application.

(b) The historic district zoning commission shall within thirty (30) days following availability of sufficient data, direct the granting of an application with or without conditions (by the issuance of the certificate of appropriateness) or direct the refusal of an application providing the grounds for refusal are stated in writing.

(c) Upon review of the application for approval of an application, the commission shall give prime consideration to:

(i) Historic and/or architectural value of present structure;

(ii) The relationship of exterior architectural features of such structures to the rest of the structures of the surrounding area;

(iii) The general compatibility of exterior design, arrangement texture and materials proposed to be used; and

(iv) To any other factor, including aesthetics, which is deemed pertinent.

(4) Additional authorities and duties. The general compatibility of exterior design, arrangement, texture, and material of the building or other structure in question and the relation of such factors to similar features of buildings in the immediate surroundings. However, the historic district zoning commission shall not consider interior arrangement or design, nor shall it make any requirements except for the purpose of preventing extensions incongruous to the historic aspects of the surroundings.

(5) Liability of historic district zoning commission members. Any commission member acting within the authorities granted by this chapter is relieved from all personal liability for any damage and shall be held harmless by the city government. Any suit brought against any member of the commission shall be defended by a legal representative furnished by the city government until the termination of the procedure.

(6) Jurisdiction. The commission shall have exclusive jurisdiction relating to historic matters. Anyone who may be aggrieved by a final order or judgment may have review by the courts by the procedures of statutory certiorari as provided for in Tennessee Code Annotated, §§ 27-9-102 and 27-9-103.

(7) Conflict of interest. Any member of the commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of said commission shall be disqualified from

participating in the discussion, decision, or proceedings of the commission therewith.

(8) Maintenance and repair of improvements. Every person in charge of an improvement in a historic district shall keep in good repair all of the exterior portions of such improvements and all interior thereof which, if not so maintained, may cause or tend to cause or tend to cause the exterior portions of such improvements to deteriorate, decay or become damaged or otherwise to fall into a state of disrepair.

(9) Injunction authorities and penalties. Where it appears that the owner or person in charge of an improvement on a landmark site or preservation site threatens or is about to do or is doing any work in violation of this chapter, the city attorney for the City of Clifton shall, when directed by the mayor and the city board of commissioners, forthwith apply to an appropriate court for an injunction against such violation of this chapter. If an order of the court enjoining or restraining such violation does not receive immediate compliance, the city attorney shall forthwith apply to an appropriate court to punish said violation pursuant to the law. Any person violating this chapter shall be guilty of a misdemeanor, punishable as other misdemeanors as provided by law. (Ord. #231, April 2011)

14-304. Current historical districts. The official boundary of the H-1 overlay district is amended to include only the Main Street district following parcel lines on both sides of the street from the Water Street intersection to Stockade Street on the East and including Frank Hughes School on the West. Other districts, such as the Water Street district, the Pillow Street district and other residential districts will be included in the future. The Main Street Historical District (H-1) and all future historical districts will have official design guidelines developed for administrative review. Each applicant shall be served with a copy of the appropriate guidelines upon request.

All citizens requesting property to be included in the H-1 overlay district must submit a map and written request to the historic district zoning commission for recommendation. Said recommendation will be further reviewed by the city board of commissioners with two (2) readings and one (1) public hearing. Said property shall be added to the H-1 district following such official adoption by the city board of commissioners. (Ord. #231, April 2011)

CHAPTER 4

SIGN REGULATIONS

SECTION

14-401. Purpose and intent. Signs constitute a separate and distinct use of the land upon which they are placed and affect the use of adjacent streets, sidewalks and property. These provisions are intended for the following purposes:

(1) To establish reasonable and impartial regulations for all signs for the City of Clifton, Tennessee.

(2) To protect the general public health, safety, convenience, and welfare.

(3) To reduce traffic hazards caused by unregulated signs that may distract, confuse and impair the visibility of motorists and pedestrians.

(4) To ensure the effectiveness of public traffic signs and signals.

(5) To protect the public investment in streets, highways and other public properties.

(6) To facilitate the creation of an attractive and harmonious community.

(7) To protect property values. (1999 Code, § 14-401)

14-402. General requirements. The regulations in this chapter specify the number, type, sizes, heights, and locations of signs that are permitted within the City of Clifton. Any sign regulation incorporated into a separate development plan approved by the city commission may supercede all or part of this chapter.

(1) No permanent sign affixed to the ground shall be erected within fifty feet (50') of another like sign.

(2) All existing permanent signs may remain provided they are maintained and in good repair. (See § 14-406 for additional regulations regarding nonconforming signs.)

(3) No sign shall be permitted where in the opinion of the administrator a traffic hazard would be created.

(4) All new signs within the historic zoning overlay district must comply with design guidelines or seek further approval through the certificate of appropriateness, from the historic zoning commission.

(5) Where a commercial use abuts a residential use, no sign shall be within fifteen feet (15') of the side lot line. (1999 Code, § 14-402)

14-403. Definitions. The following words, terms and phrases are hereby defined as follows and shall be interpreted as such throughout this sign ordinance except where definitions are specifically included in various articles and sections. Where words have not been defined, the standard dictionary definition shall prevail or such as the context may imply. In any case, the city manager, or his designee, shall have the right to interpret the definition of any word.

(1) "A-frame sign." A temporary signboard consisting of two (2) hinged boards attached at the top and that rests on the ground, but is not permanently affixed to the ground.

(2) "Abandoned sign." A sign that no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, project or activity conducted or product available in the city or on the premises where such sign is displayed.

(3) "Administrator." The designated government official whose responsibility it is to administer the provisions of this chapter. This shall be the city manager for the City of Clifton or his designee.

(4) "Building frontage." The length of the single face of a building or that portion of a building occupied by a single office, business or enterprise, commonly referred to as "store-front," which is abutting a street, parking area, or other means of customer access such as an arcade, a mall or a walkway.

(5) "Changeable copy sign." A sign on which copy is changed in the field, i.e., reader boards with changeable letters or changeable pictorial panels.

(6) "Civic sign." A sign that identifies a nonprofit institution or organization on whose premises it is located, and that contains

(a) The name of the institution or organization;

(b) The name or names of the persons connected with the institution or organization; and

(c) Greetings, announcements of events or activities occurring at the institution or similar messages.

(7) "Copy." The characters, letters, or illustrations displayed on a sign face.

(8) "Directional sign." A sign that provides on-site directional assistance for the convenience of the public such as locations of exits, entrances and parking lots.

(9) "Election sign." A temporary yard sign not exceeding six (6) square feet erected or displayed for the purpose of expressing support for or opposition to a candidate or stating a position regarding an issue upon which the voters of the city shall vote.

(10) "Illegal sign." A sign that was erected in violation of regulations that existed at the time it was constructed. An illegal sign is not the same as a nonconforming sign.

(11) "Nonconforming sign." A sign that met all legal requirements when constructed but that is not in compliance with this chapter. An illegal sign is not a nonconforming sign.

(12) "Off-premise/off-site sign." Any sign that is not located on the premises that it identifies or advertises.

(13) "Product advertisement." Any sign that references an item, product, or line of products sold by a business.

(14) "Portable sign." A sign that is designed to be moved easily and not permanently affixed to the ground or to a structure or building.

(15) "Roof sign." Any sign erected and constructed wholly on or over the roof of a building, and that is supported by the roof structure, or any sign that extends in whole or in part above the roofline of a building. (A roof sign is an illegal sign)

(16) "Roofline." On a sloping roof, the roofline is the lower edge or eave of the roof. On a flat roof, the roofline is the lowest continuous line of a roof or parapet, whichever is lower, on the side of the building upon which the sign is to be located.

(17) "Show window sign." Any temporary sign advertising sales or specials attached to the inside or outside of the glass surface of any window (glazing).

(18) "Sign." Any identification, description, illustration or device, that is attached to the inside or outside of a building face, door, or window; and that directs attention to a product, service, place, activity, person, institution, business or solicitation, except the following:

(a) Merchandise temporarily displayed in show windows that is available for sale on the premises;

(b) National, state or city flags not exceeding thirty-two (32) square feet; and

(c) Decorative devices or emblems as may be displayed on a mailbox.

(19) "Sign structure" Any structure that supports, has supported or is capable of supporting a sign, including decorative cover.

(20) "Temporary sign." A sign that is not permanent and is allowed for a specific time period.

(21) "Traffic directional sign." Any sign that aids the flow of traffic.

(22) "Waterside identification sign." A sign identifying retail, commercial or recreational property, and that can be viewed only from the waters of the Tennessee River. (1999 Code, § 14-403)

14-404. Computations. The following principles shall control the computation of sign area: Computation of area of individual signs. The area of a sign shall be computed by means of the smallest box that will encompass the limits of the sign, but not including any supporting framework or bracing. Only one (1) side shall be used to compute the size of a two (2) sided sign. (1999 Code, § 14-404)

14-405. Exempt signs. The following types of signs are exempted from all the provisions of this chapter.

(1) Public signs: Signs erected by government agencies or utilities including traffic, utility, safety, railroad crossing, and identification signs for public facilities, and any signs erected by the board of zoning appeals or under the direction of the board.

(2) Historical markers: Historical markers as recognized by local, state or federal authorities.

(3) Signs indicating address and/or name of residential occupants of the premises. Not more than one (1) such sign shall be allowed for each street frontage of each principal use on a lot.

(4) Civic signs: One (1) civic sign of not more than sixteen (16) square feet is allowed.

(5) Construction sign: One (1) temporary sign not to exceed thirty-two (32) square feet in area indicating the name of the contractors, engineers, and/or architects of a project during a construction period.

(6) Handicapped parking space sign: Signs not exceeding two (2) square feet in area reserving parking spaces for handicapped motorists.

(7) Home-occupation signs: On-premise identification signs for home-occupations shall not exceed one sign per street frontage not to exceed a total of sixteen (16) square feet in area and shall contain only the name of the business and/or business owner.

(8) Memorial signs: Plaques, cornerstones, and the like.

(9) Security and warning signs: On-premise signs regulating the use of the premises such as "no trespassing," "no hunting," and "no soliciting" or signs indicating security systems used on premises that do not exceed two (2) square feet in area on residential lots and five (5) square feet in area on commercial and industrial lots.

(10) Temporary real estate or auction signs: Temporary signs indicating the availability of real property for sale or lease, located on the premises being sold or leased. Display of such sign shall be limited to one (1) per property street frontage not exceeding a total of sixteen (16) square feet in area.

Such signs shall be removed within seven (7) days of the settlement or lease of the property.

(11) Special event signs: Signs announcing special events to be used on a temporary basis. Any business, individual, or organization may display one (1) sign per street frontage not to exceed a total of sixteen (16) square feet of area for up to fourteen (14) days prior to a special event. Such signs shall be attached to buildings, or existing private sign structures, or sign poles with the permission of the owner.

(12) Farm product signs: Temporary on-premise signs announcing the availability of seasonal farm produce or nursery products. The number of signs shall not exceed one (1) per street frontage and total area of all such signs shall not exceed sixteen (16) square feet.

(13) Any signage required by federal law pertaining to wireless transmission facilities.

(14) Any signage required by the Federal Aviation Administration.

(15) A changeable copy sign not exceeding thirty-two (32) square feet will be allowed when included as part of another authorized sign.

(16) Subdivision entrance signs for a duly recorded subdivision plat located at the entrance to subdivisions, but not including driveway entrances, that includes information about the subdivision and do not exceed thirty-two (32) square feet of sign face area per sign.

(17) One (1) waterside sign per development along the Tennessee River provided that the sign is visible only from the Tennessee River and does not exceed one (1) square foot per one foot (1') of river frontage, not to exceed a total of two hundred (200) square feet.

(18) Show window signs announcing special events or products may be displayed up to a total of sixteen (16) square feet of area for up to fourteen (14) days. Such signs must be located on the interior of the building.

(19) Signs totaling one (1) square foot of area for each one (1) square foot of building linear street frontage, not to exceed one hundred (100) square feet.

(20) Seasonal decorations that do not reference a business or product.

(21) Off-premise signs indicating the location or direction to a non-profit organization located within the City of Clifton, which do not exceed six (6) square feet of sign area per sign. Each organization is allowed a maximum of three (3) such signs. These signs may be located within the public rights-of-way if they do not interfere with traffic safety.

(22) Signs erected by the City of Clifton on public rights-of-way that serve as a directory of businesses within the City of Clifton and are uniform in size and design. (1999 Code, § 14-405)

14-406. Nonconforming signs. (1) Any permanent identification sign that lawfully exists at the time of enactment of this chapter shall be allowed to remain until such time as the sign is substantially altered or changed, or until

such time as another sign is proposed in lieu of the existing sign, or until such time as the ownership of the business changes. Such sign shall be in conformance to all other provisions of this chapter.

(2) No nonconforming sign shall be enlarged, extended, structurally reconstructed or altered in any manner.

(3) Nonconforming signs shall not be considered the same as an illegal sign: one that is constructed after this chapter was enacted and that does not comply with this chapter. (1999 Code, § 14-406)

14-407. Prohibited signs. The following signs are prohibited under this chapter.

(1) Signs painted on or attached to fence posts, trees, rocks, canopy posts, utility poles, in any river, stream or creek, in the Federal Emergency Management Agency determined floodway area, or any other designated USGS natural water body (blue-line stream). Signs may be located within the 100-year floodway fringe or the 500-year flood limit areas subject to further review.

(2) Any sign that may be confused with or obstruct the view of any authorized traffic sign or signal, or extend into the public right-of-way.

(3) Signs that advertise an activity, business, product or service not conducted on the premises upon which the sign is located.

(4) Signs displayed as, pennants, flags with commercial messages, banners, streamers, propellers, discs, and searchlights that are intended for permanent use.

(5) Signs that include lights that flash, blink, or turn on and off intermittently, not including time and temperature signs that are intended for permanent use.

(6) Glaring signs with light sources or reflectivity of such brightness that constitute a hazard or nuisance.

(7) Inflatable signs and objects including, but not limited to, balloons that are intended for permanent use.

(8) Portable signs that are not permanently affixed to the building, structure, or the ground. This shall not apply to authorized, temporary signs.

(9) Roof signs, i.e., signs that are erected on a roof or that extend in height above the roofline of the building on which the sign is erected.

(10) Signs that extend in height above the roofline of the building on the premises upon which the sign is erected.

(11) Signs attached to, suspended from, or painted on any vehicle that is regularly parked on any street or private property when one (1) of the purposes of so locating such vehicle is to display, demonstrate, and advertise or attract the attention of the public for a duration of more than fourteen (14) days.

(a) It is not a violation of this chapter merely to have a common logo or business sign attached to, suspended from, or painted on a company vehicle regularly engaged in the business of the owner.

(b) When it is determined by appropriate authorities that a vehicle is being regularly parked in a manner that violates this chapter, the city will issue a single notice of warning to the owner of the vehicle, who will be provided an opportunity for an informal hearing by representatives of the city prior to the institution of formal judicial proceedings.

(12) Election signs exceeding one per candidate or issue per property.

(13) Permanent signs exceeding one (1) square foot of sign per one (1) linear foot of building frontage.

(14) Total permanent signs exceeding one hundred (100) square feet of surface area per property.

(15) A single permanent sign exceeding thirty-two (32) square feet of surface area.

(16) Signs located within public rights-of-way.

(17) Signs located over pedestrian areas that do not have a minimum of eight feet (8') of clearance from ground to base.

(18) Signs extending to within eighteen inches (18") of a street curb or parking area.

(19) Product advertisement signs: No product advertisement signs shall be located on the exterior of a building. A product advertisement advertises a particular product or line of products being sold, rather than the business located on the premises.

(20) A-frame signs left on the exterior of the building when business is not open for business. (1999 Code, § 14-407, modified)

14-408. Illumination. Illuminated signs shall adhere to the following provisions and restrictions:

(1) The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity will not be objectionable to surrounding areas.

(2) Beacon lights are not permitted unless required by the Federal Aviation Administration.

(3) No colored lights shall be used at any location in any manner so as to be confused with or construed as traffic control devices or emergency vehicle lights.

(4) Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares. (1999 Code, § 14-408)

14-409. Inspection and safety. (1) Inspection. All signs shall be inspected periodically for compliance with this chapter.

(2) Maintenance. All signs and sign components shall be kept in good repair and in safe, neat, clean and attractive condition.

(3) Removal of signs. The city manager shall remove any sign immediately and without notice if the sign presents an immediate threat to the

safety of the public or if the sign is located within a public right-of-way or on public property. Any sign removal shall be at the expense of the property owner or lessor.

(4) Abandoned signs. A sign shall be removed by the property owner when the business that it advertises is no longer conducted on the premises. (1999 Code, § 14-409)

14-410. Administration. (1) Enforcement. The city manager, or his designee, is hereby authorized and directed to enforce all of the provisions of this chapter.

(2) Violations. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. The owner of any sign, building or premises, or part thereof, where anything in violation of this chapter shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense.

(3) Appeals. Any person which disagrees with the decision of the administrator may appear in municipal court before the judge to state their appeal of the administrator's decision. (1999 Code, § 14-410)

14-411. Severable nature of chapter. The various sections, subsections, paragraphs and clauses of this chapter are severable and in the event that any section, subsection, paragraph or clause is judged to be invalid, the remainder of the chapter shall remain in full force and effect. (1999 Code, § 14-411)

14-412. Protection of first amendment rights. Any sign, display, or device allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful, non-commercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this chapter. (1999 Code, § 14-412)

14-413. Special provisions for service stations. A service station or convenience store that is engaged in the retail distribution of petroleum and petroleum products shall be further entitled to the following signs.

(1) One (1) non-illuminated permanent price sign is allowed to be located on the pump island. This sign counts toward the total square footage allocated for the property upon which it is displayed.

(2) Signs displaying the federal and state stamps, octane ratings, pump use directions, no smoking signs and other signs as required by federal, state and local authorities, provided that the accumulated total square footage of same shall not exceed two (2) square feet per pump island.

(3) Other signs and stamps required by state and federal law, provided same are of size no greater than the minimum requirements of the law and for design, size and lighting as approved by the city manager. (1999 Code, § 14-413)

14-414. <u>Historic district design guidelines</u>. In addition to the requirements set forth by this sign ordinance, signs to be located within the historic districts must go through the historic district commission's approval process prior to sign erection. In most cases, attending a meeting of the historic district commission will be necessary. The commission has set some general guidelines for signs that are to be located within the historic districts. The historic district commission is granted separate injunctive powers, as authorized by state law, to enforce the guidelines not specifically mentioned within this chapter. (1999 Code, § 14-414)

CHAPTER 5

AIRPORT ZONING ORDINANCE

SECTION

14-501. Short title. This chapter shall be known as the "Hassell Field Airport Zoning Ordinance." (Ord. #242, July 2013)

14-502. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Airport." Hassell Field Municipal Airport.

(2) " Airport elevation." The established elevation of the highest point on the usable landing area measured in feet from mean sea level. For the Hassell Field Municipal Airport, this value is four hundred one feet (401') MSL.

(3) "Approach surface." A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in § 14-504 of this chapter. The perimeter of the approach surface coincides with the perimeter of the approach zone.

(4) "Approach, transitional, horizontal, and conical zones." These zones are set forth in § 14-503 of this chapter.

(5) "Conical surface." A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand feet (4,000').

(6) "Hazard to air navigation." An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

(7) "Height." For the purpose of determining the height limits as to all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

(8) "Horizontal surface." A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which plane coincides with the perimeter of the horizontal zone.

(9) "Landing area." The surface area of the airport used for the landing, takeoff, or taxiing of aircraft.

(10) "Nonconforming use." Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of this chapter or an amendment thereto.

(11) "Nonprecision instrument runway." A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

(12) "Obstruction." Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in § 14-504 of this chapter.

(13) "Person." An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

(14) "Precision instrument runway." A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

(15) "Primary surface." A rectangular surface longitudinally aligned with the runway and defined by the largest rectangular area definable containing the runway within the Hassell Field property boundaries. For Runway 2/20 at Hassell Field, a four thousand six hundred foot (4,600') long runway with visual approaches, the primary surface is a rectangular area two hundred fifty feet (250') in width centered on the runway (east-west orientation) and extends two hundred feet (200') in length (north-south orientation) beyond the ends of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(16) "Runway." A defined area on an airport prepared for landing and take-off of aircraft along its length.

(17) "Structure." An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

(18) "Transitional surfaces." These surfaces extend outward and upward at ninety degree (90°) angles to the runway centerline at a slope of seven feet (7') horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

(19) "Tree." Any object of natural growth.

(20) "Visual runway." A runway intended solely for the operation of aircraft using visual approach procedures.

(21) "Utility runway." A runway that is constructed for and intended to be used by propeller driven aircraft twelve thousand five hundred pounds (12,500 lbs) maximum gross weight and less. (Ord. #242, July 2013)

14-503. Zones. In order to carry out the provisions of this chapter, there are hereby created and established certain zones, which include all of the land lying beneath the approach surface, transitional surfaces, horizontal surface, and conical surface as they apply to Hassell Field. Such zones are shown on a zoning map and the Airport Layout Drawing (ALD), which is attached to this chapter as Attachment A[1] and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

(1) Approach zones. (a) Runway 2 approach zone is established beneath the approach surface at the end of Runway 2 on Hassell Field for visual landings and takeoffs. The inner edge of the approach zone shall have a width of two hundred fifty feet (250') which coincides with the width of the primary surface at the north end of the primary surface, widening thereafter uniformly to a width of one thousand five hundred feet (1,250') at horizontal distance of five thousand feet (5,000') beyond the end of the primary surface, its centerline being continuation of the centerline of the primary surface.

(b) Runway 20 approach zone is established beneath the approach surface at the end of Runway 20 on Hassell Field for visual landings and takeoffs. The inner edge of the approach zone shall have a width of two hundred fifty feet (250') which coincides with the width of the primary surface at the south end of the primary surface, widening thereafter uniformly to a width of one thousand two hundred fifty feet (1,250') at a horizontal distance of five thousand feet (5,000') beyond the end of the primary surface, its centerline being the continuation of the centerline of the primary surface.

(2) Transitional zones. Transitional zones are hereby established beneath the transitional surface adjacent to each runway and approach surface as indicated on the zoning map.

(3) Horizontal zone. The area beneath a horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which is constructed by swinging arcs of five thousand feet (5,000') radii from the center of each end of the primary surface of runway(s) 2 and 20 and connecting the adjacent arcs by lines tangent to those arcs.

(4) Conical zone. The area beneath the conical surface extending outward and upward from the periphery of the horizontal surface at a slope of

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[1]Attachment A is available in the office of the city recorder.

20:1 for a horizontal distance of four thousand feet (4,000'). (Ord. #242, July 2013)

14-504. Height limitations. Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(1) Approach zones. (a) Runway 2: One foot (1') in height for each twenty feet (20') in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point five thousand feet (5,000') from the end of the primary surface.

(b) Runway 20: One foot (1') in height for each twenty feet (20') in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point five thousand feet (5,000') from the end of the primary surface.

(2) Transitional zones. Slope seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150') above the airport elevation which is four hundred one feet (401') above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

(3) Horizontal zone. Established at one hundred fifty feet (150') above the airport elevation, or a height of five hundred fifty-one feet (551') above the mean sea level.

(4) Conical zone. Slope twenty feet (20') outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty feet (150') above the airport elevation and extending to a height of three hundred fifty feet (350') above the airport elevation.

(5) Excepted height limitations. Nothing in this chapter shall be constructed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to fifty feet (50') above the surface of the land. (Ord. #242, July 2013)

14-505. Use restrictions. Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or

interfere with the landing, taking-off, or maneuvering of aircraft intending to use the airport. (Ord. #242, July 2013)

14-506. Nonconforming uses. (1) Regulations not retroactive. The regulations described by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the relations as of July 2013, the effective date of this chapter, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this chapter and which has been diligently prosecuted.

(2) Marking and lighting. Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Clifton Airport Authority to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Clifton Airport Authority. Except as indicated, all applications or such a permit will be granted. (Ord. #242, July 2013)

14-507. Permits. (1) Future uses. Except as specifically provided in (a), (b), and (c) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with § 14-507(4).

(a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet (75') of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred feet (4,200') from each end of the runway no permit shall be required for any tree or structure less than seventy-five feet (75') of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

(c) In the areas lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet (75') of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transitional zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure or growth of any tree in excess of any of the height limits established by this chapter except as set forth in § 14-504(5).

(2) Existing uses. No permit shall be granted that would allow the establishment or creation of any airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this chapter or any amendments hereto or than it is when the application for a permit is made.

(3) Nonconforming uses, abandoned or destroyed. Whenever the Clifton Airport Authority and Clifton City Board of Commissioners determines that a nonconforming structure or tree has been abandoned or more than eighty percent (80%) torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning relations.

(4) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree or use his property in violation of the regulations prescribed in this chapter, may apply to the city commission for a variance from such regulations in question. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe-efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the relations will result in unnecessary hardship and the relief granted would not be contrary to the public interest, but do substantial justice, and be in accordance with the spirit of this chapter. Additionally, no application for variance to the requirements of this chapter may be considered by the Clifton Airport Authority or the city commission unless a copy of the application has been furnished to the manager of Hassell Field for advice as to the aeronautical effects of the variance. If the manager of Hassell Field does not respond to the application within fifteen (15) days after receipt, the city commission may act on its own to grant or deny said application.

(5) Obstruction marking and lighting. Any permit or variance granted, if such action is deemed advisable by the Clifton Airport Authority or the city commission to effectuate the purpose of this chapter and be reasonable in the circumstances, may be so conditioned as to require the owner of the structure or tree in question to allow the Clifton Airport Authority to install, operate, and

maintain, at the expense of the city, such markings and lights as may be necessary. (Ord. #242, July 2013)

14-508. Enforcement. It shall be the duty of the City of Clifton to administer and enforce the regulations prescribed herein. Applications for permits shall be made to the Clifton Airport Authority upon a form published for that purpose. Applications required by this chapter to be submitted to the Clifton Airport Authority shall be promptly considered and granted or denied. Applications for variance shall be made to the Clifton Airport Authority by filing said application for variance determination. (Ord. #242, July 2013)

14-509. Appeals and judicial review. (1) Any person aggrieved by any decision of the City of Clifton or the Clifton Airport Authority, the Clifton Planning Commission or the Clifton City Board of Commissioners made in administration of this chapter may appeal such decision to the Circuit Court of Wayne County, Tennessee.

(2) All appeals hereunder must be taken within ten (10) days after such ruling by filing a notice of appeal specifying the grounds thereof. The notice of appeal shall forthwith be transmitted by the city recorder of the City of Clifton to the clerk of the Circuit Court for Wayne County, Tennessee and shall include papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all activities in furtherance of the action by the application and appeal in accordance with applicable law. (Ord. #242, July 2013)

14-510. Remedies. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the city commission, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct, or abate any such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such premises. (Ord. #242, July 2013)

14-511. Conflicting regulations. (1) Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the terms and provisions of this chapter shall govern and prevail.

(2) If any of the provisions of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other

provisions or application, and to this end the provisions of this chapter are declared to be severable. (Ord. #242, July 2013)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

15-101. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under Tennessee Code Annotated, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount

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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars ($50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected.

15-102. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, the city adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the city adopts Tennessee Code Annotated, §§ 55-8-181 to 55-8-193, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-8-199 by reference as if fully set forth in this section.

CHAPTER 2

SPEED LIMITS

SECTION

15-201. In general. It shall be unlawful for any person to drive an automobile, motor-car, automobile truck, motorcycle or other motor driven vehicles within the corporate limits of the City of Clifton, Tennessee at a rate of speed more than twenty miles per hour (20 m.p.h.) unless otherwise posted. (1999 Code, § 15-201)

15-202. On certain streets. No person shall drive or operate a motor vehicle on State Highway no. 114 within the corporate limits of the City of Clifton in excess of thirty miles per hour (30 m.p.h.), unless otherwise posted. (1999 Code, § 15-202)

CHAPTER 3

PARKING

SECTION

15-301. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1999 Code, § 15-301)

15-302. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1999 Code, § 15-302)

15-303. 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. (1999 Code, § 15-303)

15-304. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:

(a) Physically handicapped, or

(b) Parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21. (1999 Code, § 15-304)

15-305. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1999 Code, § 15-305)

15-306. 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. (1999 Code, § 15-306)

CHAPTER 4

ENFORCEMENT

SECTION

15-401. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be a civil offense for any alleged violator to give false or misleading information as to his name or address. (1999 Code, § 15-401)

15-402. 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. (1999 Code, § 15-402)

15-403. 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. (1999 Code, § 15-403)

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[1]Municipal code reference
Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 1.
State law reference
Tennessee Code Annotated, § 7-63-101, et seq.

15-404. 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 affixed to the vehicle 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. (1999 Code, § 15-404)

15-405. 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. (1999 Code, § 15-405)

15-406. Violations and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

(2) Parking citations. For parking violations, excluding handicapped parking violations, the offender may have the charge against him disposed of by paying to the city recorder a fine not to exceed twenty-five dollars ($25.00) provided he waives his right to a judicial hearing. If the offender wishes to contest the citation in municipal court, he shall be subject to a maximum fine of twenty-five dollars ($25.00) and all associated court costs and taxes, as allowed by law, if found guilty. (1999 Code, § 15-406)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1999 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (1999 Code, § 16-102)

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1999 Code, § 16-103)

16-104. 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. (1999 Code, § 16-104)

16-105. 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. (1999 Code, § 16-105)

16-106. 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. (1999 Code, § 16-106)

16-107. 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. (1999 Code, § 16-107)

16-108. 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 city recorder. (1999 Code, § 16-108)

16-109. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1999 Code, § 16-109)

16-110. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful

for any person knowingly to allow any minor under his control to violate this section. (1999 Code, § 16-110)

16-111. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1999 Code, § 16-111)

16-112. Basketball goals alongside or within public right-of-ways.

(1) No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street within the municipal limits of the City of Clifton so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-way or the presence of persons within a public street playing basketball on such a goal shall be a violation of this section.

(2) Any violation of this section shall be punishable by a fine of fifty dollars ($50.00). (1999 Code, § 16-113)

16-113. Violations and penalty. Violations of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

EXCAVATIONS

SECTION

16-201. Street obstructions. No fence, barricade, temporary driveway or other obstruction may be placed on a street, sidewalk or gutter except as may be permitted by the building code of the City of Clifton and authorized by the city manager or his representative. (1999 Code, § 16-201)

16-202. Permit required. The city manager may issue permits for the temporary obstruction of streets or sidewalks in connection with the construction of buildings or other permanent installations on property adjacent to streets or sidewalks. Such permits shall be in writing and shall state the time and place where such obstructions are to be placed and when they are to be removed. The temporary blocking of sidewalks by the unloading of fuels, building materials, household furnishings, or mercantile supplies shall require no permit provided that they do not constitute an undue hazard to traffic and that they are removed within a reasonable time. (1999 Code, § 16-202)

16-203. Bond required. When permits are requested to disturb, dig up or in any wise obstruct any street or public place in the city, it shall be the duty of the city manager to require from such applicant, before granting a permit, a bond with good end sufficient sureties, conditioned to secure the city against all loss, damage or injury of any kind which may result to the city by reason of such disturbance digging up or obstruction of the street; provided that persons engaged in the business of contracting shall be allowed to give an annual bond instead of a bond for each obstruction such annual bond in every instance, however, to be renewed at least once every twelve (12) months; and it shall be a misdemeanor for any person not having given an annual bond to so disturb the streets without the permission and the bond herein required. (1999 Code, § 16-203)

16-204. Liability and responsibility for repair. Where digging is done in the streets for the purpose of making sewer, gas, water or wire connections, or for any other purpose, at the instance of and for the benefit of the abutting owners said abutting property owner shall be liable and responsible, and the person doing said work shall be liable and responsible for the proper and sufficient repair of said street and the city manager is hereby authorized and required to make such necessary and proper repairs at the cost and expense of the person doing such work, or having such work done or for whose benefit such work is done, or at the cost and expense of each of such persons or all of such persons, jointly and severally.

Where such work is by any person for his own use and benefit, in the execution of his business, said person doing such work shall be liable and responsible for the proper repair of the same and the city manager is hereby authorized and required to make such repairs at the cost and expense of the person doing such work or having such work done. (1999 Code, § 16-204)

16-205. Protection, guards and warnings. It shall be unlawful for any person to take out a pole or put in a pole, or take out or put in a grating or light area in any sidewalk, or take out or remove a tree in any sidewalk within the corporate limits of the city without protecting, guarding or warning the public against any hole in the sidewalk, and after said pole is put in or taken out, or said grating or area cover is put in or taken out, or said tree is put in or taken out, all such excavations or holes shall be guarded with red lights at night, or, if reasonably necessary, with a guard or barrier by day or night to protect the traveling public along said sidewalks from personal injuries.

Any person leaving a hole or excavation in the sidewalk unguarded by barrier, guard or light, or other reasonable protection against the dangers thereof, whether caused by the taking out or putting in of a light area or grating, or from any other cause which leaves the sidewalk in an unsafe condition for travel and dangerous to pedestrians passing to and from thereon, shall be guilty of a misdemeanor. (1999 Code, § 16-205)

16-206. No dumping. It shall be unlawful for any person to accumulate on any street, or sidewalk refuse, trash, or any other materials which may constitute a traffic hazard, a menace to public health or a public nuisance. (1999 Code, § 16-206)

16-207. Removal of obstructions. The city manager may order the removal of any building, fence, barricade or other obstruction which had been placed on the streets, sidewalks or other city property prior to the passage of this section. Such orders shall be in writing and shall allow not less than ten (10) days to correct the offending condition. (1999 Code, § 16-207)

16-208. Right of appeal. Any person receiving an order under § 16-207 shall have the right to appeal his case to the city commission. Such appeal must be made in writing to the mayor within ten (10) days after the receipt of such order from the city manager. The city commission shall conduct an open hearing on the appeal and a majority vote of the commission shall make final disposition of the case. (1999 Code, § 16-208)

16-209. Violations and penalty. Any person or persons found to be in violation of the foregoing provisions shall be deemed guilty of a misdemeanor and subject to a fine not to exceed the amount of fifty dollars ($50.00). (1999 Code, § 16-209)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER
1. GARBAGE AND REFUSE.

CHAPTER 1

GARBAGE AND REFUSE

SECTION

17-101. Collection. The City of Clifton, Tennessee, shall hereafter provide to its residents a service of garbage/refuse collection. All individuals, firms, or corporations located within the city limits of Clifton, shall be required to make use of such service. (1999 Code, § 17-101)

17-102. Customer classifications. The following definitions shall apply to the type of service to be provided to the residents of Clifton. Such definitions of customer service shall additionally determine the fee structure applicable to each firm, individual, or corporation. The following definitions are provided:

(1) "Bin/container collection." Any retail, service, professional, industrial and commercial establishment located within the corporate limits of the City of Clifton, generating an equivalent of more than ten (10), thirty (30) gallon bags of refuse/garbage per week shall be required to be collected through the use of bins/containers.

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[1]Municipal code reference
Property maintenance regulations: title 13.

(2) "Residential unit." A standard detached or attached single family dwelling unit located within the corporate limits of the City of Clifton. Such unit is occupied by a family or group of individuals not to exceed twelve (12) in number. Apartments, mobile homes, or condominiums whether single or multi story construction, consisting of twenty-four (24) or less continuous or separate units shall be considered for billing purposes as single dwelling units and billed accordingly. Residential dwelling units shall be limited to a maximum weekly volume of five (5), thirty (30) gallon bags or equivalent per unit for collection purposes.

(3) "Singular person residential." The same definition of a "residential" dwelling unit defined above except that such unit shall house only one occupant.

Individuals declaring such status shall be required to sign and file necessary documentation for status certification declared necessary by the City of Clifton. Singular person residential dwelling units shall be limited to a maximum weekly volume of two (2), thirty (30) gallon bags or equivalent per unit for collection purposes.

(4) "Small business." Retail, service, professional, industrial and commercial establishments located within the corporate limits of the City of Clifton generating no more than an equivalent of ten (10), thirty (30) gallon bags of garbage/refuse per week. Such customers may elect to have bin/container collection solely at their discretion and cost.

Monthly fees for service shall be based upon a standardized rate system that depends upon the weekly volume of refuse collected, the frequency of collection and the number of bins/containers needed to service the customer.

ANY INDUSTRIAL ACCOUNT(S) REQUESTING COMPACTOR CONTAINER(S) SERVICE WILL BE FURNISHED SUCH SERVICE. (1999 Code, § 17-102)

17-103. <u>Monthly rates and collection rates</u>. (1) The following monthly fee structure shall apply to each respective customer classification:

Bin/Container:

3 yards x 1 per week--$46.49
3 yards x 2 per week--$108.64

4 yards x 1 per week--$65.12
4 yards x 2 per week--$160.18

6 yards x 1 per week--$83.68
6 yards x 2 per week--$195.55

8 yards x 1 per week--$111.57

8 yards x 2 per week--$274.45

Residential Collection--$11.18 per month for once weekly collection.
Light Commercial-------$12.87 per month for once weekly collection.

(2) Method of charging and billing fees. All refuse/garbage collection and disposal charges shall be billed through the city's present water and sewer billing department. The collection shall be due and payable on the same date as the water and/or sewer billings are due. The fees fixed under the terms and provisions of this chapter shall be directed to the property owner, occupant or lessee of the premises. Water service may be discontinued for failure to pay the collection service fee. Any person making application for water service shall be deemed to have applied for refuse/garbage collection service and shall be considered a customer of the refuse/garbage collection service until such times as water service to such individual has been discontinued. (1999 Code, § 17-103, as amended by Ord. #244, June 2014)

17-104. Collection service standards. (1) Residential, singular person residential and small business.

(a) Mandatory bag required. All trash, rubbish, grass, yard clippings, refuse or garbage shall be placed and enclosed in a fastened plastic garbage bag or trash bag as commonly sold in retail stores. All bags shall be of a size of less than thirty (30) gallons or equivalent and so loaded as to prevent the bag from bursting. The contents of all bags shall then be placed into a covered container which would require a person to remove the cover, so as to protect in a manner that will prevent animal intrusion. Violators of this section may be cited in municipal court.

(b) Collection of tree limbs, bulky objects, white goods, etc. Collection of tree trimmings, appliances, furniture objects shall occur during the days established for refuse collection. Tree trimmings, loose materials and other such materials much be bagged, bundled or placed in a disposable container in lots not to exceed thirty (30) pounds in weight and not to exceed four feet (4') in length.

(c) Mandatory curbside collection required. Each receptacle, bag, bundle or object for collection shall be placed at the curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled city roadways. Such items shall be placed as close to the roadway as practical without interfering with or endangering the movement of vehicles or pedestrians. The City of Clifton acting through its official representatives shall make the final determination of the point of collection.

(2) Bin/container collection. (a) Individual agreement with each customer. The City of Clifton, shall provide a bin/container collection system for non-residential customers generating an equivalent of more than ten (10), thirty (30) gallon bags of refuse per week. The city shall

contract with each customer in an attempt to provide adequate services. The city reserves the right to increase the number of containers and/or the frequency of collection for the individual customer in order to protect the health, safety and welfare of the citizens of the community and to bill the customer for such changes in services accordingly.

(b) Waste not contained in dumpster/bin. All refuse/garbage generated by the customer must be contained in the bin/container provided by the city. The City of Clifton shall not assume any responsibility for the collection and disposal of any waste, refuse or garbage not placed in bin/container.

(c) Location of bin/containers. Bins/containers shall be placed so that they are readily accessible in all weather conditions at the outside location, on a hard surface in accordance with the individual customer's agreement. The city may refuse to collect bins/ containers not so placed. The customer shall be responsible for properly maintaining the drive or access way required to access the bin/containers.

(3) Wastes generated by contractor for hire. Waste and refuse generated by contractors for hire, including but not limited to; construction, remodeling, repair, tree trimming, tree removal, debris removal, razing, land clearing, roofing, appliance repair and installation, will not be collected in accordance with the provisions of this chapter. Disposal of wastes/garbage/refuse generated by a contractor for hire will be collected only at a pre-negotiated rate with the city or at the individual responsibility of the contractor. Contractors shall be fully and legally responsible for any refuse, garbage, or waste not collected and disposed of by the City of Clifton.

Bins/containers shall be placed so that they are readily accessible in all weather conditions at the outside location, on a hard surface in accordance with the individual customer's agreement. The city may refuse to collect bins/containers not so placed. The customer shall be responsible for properly maintaining the drive or access way required to access the bin/containers. (1999 Code, § 17-104)

17-105. Removal or collection by unauthorized individuals. The removal of refuse/garbage by any individual, firm, or corporation, except as specified in § 17-104, other than the City of Clifton or its authorized agents is strictly prohibited. (1999 Code, § 17-105)

17-106. Unauthorized use of bin/container. The placement of refuse/garbage in a collection bin/container without the express permission of the contracted customer is prohibited. (1999 Code, § 17-106)

17-107. Collection of non-resident refuse/garbage. The placement for collection of any non-resident refuse/garbage within the City of Clifton, is prohibited. (1999 Code, § 17-107)

17-108. Movement of refuse from one premises to another. The relocation or movement of refuse from one premises to another premises for collection purposes is prohibited. (1999 Code, § 17-108)

17-109. Establishment of collection routes and days. The City of Clifton shall establish routes and days for collection services. The city shall inform the general public of any changes in collection routes and/or days through a notice published in a newspaper of local circulation. Such notice shall be published a minimum of ten (10) days before the implementation of proposed change. (1999 Code, § 17-109)

17-110. Collection during specific holidays. Refuse/garbage collection will not be performed on the established holidays. Routes not collected on these holidays will be rescheduled for collection either immediately before or after the respective holiday. Customers shall be informed of collection change resulting from the observation of holiday by newspaper notice. (1999 Code, § 17-110)

17-111. Hours and days of collection. Refuse/garbage collection will not commence before the hour of 7:00 A.M. nor continue after 6:00 P.M., Monday through Saturday. (1999 Code, § 17-111)

17-112. Violations and penalty. Any person, firm or corporation failing to meet or violating the provisions of this chapter shall be guilty of a misdemeanor and shall be fined a sum of not less than five dollars ($5.00) nor more than fifty dollars ($50.00) and each day of violation shall constitute a separate offense. (1999 Code, § 17-112)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

CHAPTER 1

GENERAL WASTEWATER REGULATIONS

SECTION

18-101. Purpose and policy. This chapter sets forth uniform requirements for users of the City of Clifton, 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;

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[1]Municipal code references

Building, utility and residential codes: title 12.

Refuse disposal: title 17.

(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.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Clifton 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 2 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 2 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.

18-102. Administrative. Except as otherwise provided herein, the local administrative officer of the city shall administer, implement, and enforce the provisions of this chapter.

18-103. 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 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 paragraphs (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 § 18-109. 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 Celsius (20°C) 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 as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "City." The Board of Commissioners, City of Clifton, 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 CFR 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 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 non-domestic 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 commissioners or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to section 205.

(35) "National categorical 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, 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 (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 CFR 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 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(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 CFR 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 CFR 403.8(f)(6)).

(51) "Significant noncompliance." Per 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 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 § 18-105(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within 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 times in four 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) "Stormwater." 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) "Surcharge." An additional fee assessed to a user who discharges compatible pollutants at concentrations above the established surcharge limits. Surcharge limits are the level at which the permit holder will be billed higher rates to offset the cost of treating wastewater which exceeds the surcharge

limits. Exceeding a surcharge limit but not a monthly average or daily maximum limit will not result in enforcement action.

(59) "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.

(60) "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.

(61) "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.

(62) "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.

(63) "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.

(64) "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.

(65) "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.

(66) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements.

18-104. 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) Discharging into the sanitary sewer without permission of the city is strictly prohibited and is deemed "theft of service."

(6) 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 § 18-105.

(7) 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.

(8) Users have a duty to comply with the provisions of this ordinance in order for the city to fulfill the stated policy and purpose. Significant Industrial users must comply with the provisions of this ordinance and applicable state and federal rules according to the nature of the industrial discharge.

18-105. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-104(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.

18-106. 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 ordinance. 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 this ordinance shall be completely and permanently disconnected within sixty (60) days of the effective day of this ordinance. 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 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 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') feet 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°) degrees. Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and 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 § 18-107 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. (a) 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 stormwater 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.

(b) 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.

(c) The point of division between the building sewer and the city owned sewer tap or service connection shall be at the property line, right-of-way line, property line sewer cleanout, or such point in this general area as identified by the superintendent. The city owned tap or service line connection cannot extend onto private property except that minimal distance to the edge of right-of-ways, easements, or that distance necessary to cross other city utility lines and provide a location unencumbered by other underground city utilities where the user can make a connection to the building sewer without risk of damage to those other city utilities.

(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.us/environment/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.

18-107. 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 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 including but not limited to transportation, labor, materials, excavation, subcontractors, engineering fees, cleanup expenses, and other expenses related to the service call. In addition if the city receives regulatory fines related to equipment failure and sewage overflows all such fines will be passed on to the user.

18-108. 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 § 18-107 of this ordinance. 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 Clifton.

(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.

18-109. 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 or other pretreatment standard may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-110 and 18-105. 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 Fahrenheit (140° F) or sixty degrees Celsius (60° C) using the test methods specified in 40 CFR 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 other flammable substances.

(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 Celsius (40°) C (one hundred four degrees Fahrenheit (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 CFR 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 stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of 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 2 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 2 of this ordinance. 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	
Benzene	
Cadmium	
Carbon Tetrachloride	
Chloroform	
Chromium (total)	
Copper	
Cyanide	
Ethybenzene	
Lead	
Mercury	
Methylene chloride	
Molybdenum	
Naphthalene	
Nickel	
Phenol	

Table A Plant Protection Criteria

Parameter	Maximum Concentration (mg/l)
Selenium	
Silver	
Tetrachloroethylene	
Toluene	
Total Phthalate	
Trichloroethylene	
1,1,1-Trichloroethane	
1,2 Transdichloroethylene	
Zinc	

(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 plant, 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 § 18-102 to regulate the discharge of fat, oil and grease.

18-211. Enforcement and abatement. 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 2. Repeated or continuous violation of this ordinance 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, including if applicable legal costs, 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.

CHAPTER 2

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION

18-201. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this ordinance 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 ordinance.

(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 § 18-205.

(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 local limits, Table B or other applicable state and federal pretreatment rules which may be in effect or take effect after the passage of this chapter.

Table B - Local Limits

Pollutant	Monthly Average* Concentration (mg/l)	Maximum Daily Concentration (mg/l)
Arsenic		
Benzene		
Cadmium		
Carbon Tetrachloride		
Chloroform		
Chromium (total)		
Copper		
Cyanide		
Ethybenzene		
Lead		
Mercury		
Methylene chloride		
Molybdenum		
Naphthalene		
Nickel		
Phenol		
Selenium		
Silver		
Tetrachloroethylene		
Toluene		
Total Phthalate		
Trichloroethylene		
1,1,1-Trichoroethane		

Table B - Local Limits

Pollutant	Monthly Average* Concentration (mg/l)	Maximum Daily Concentration (mg/l)
1,2 Transdichloroethylene		
Zinc		

*Based on twenty-four (24) hour flow proportional composite samples unless specified otherwise.

(5) Surcharge threshold and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge thresholds. Maximum concentrations may also be established for some users.

Table C-Surcharge and Maximum Limits

Parameter	Surcharge Threshold	Maximum Concentration
Total Kjeldahl Nitrogen (TKN)		
Oil and grease		
MBAS		
BOD		
COD		
Suspended solids		

(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.

(9) Combined wastestream formula. When wastewater subject to categorical pretreatment standards is mixed with wastewater not regulated by the same standard, the permitting authority may impose an alternate limit using the combined wastestream formula.

18-202. 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 ordinance 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 18-201 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 prior written approval of the local administrative officer. 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.

18-203. 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 CFR 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.

18-204. <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 section 205.

(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 subsection (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 CFR 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 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 CFR 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 § 18-204(2) of this ordinance.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-204(14) of this ordinance and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-204(1)(d) of this ordinance:

(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 §18-204(1)(b)(iv) and (v) of this ordinance. 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 ordinance.

(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 § 18-201 of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-202 of this chapter or modify an existing wastewater discharge permit under § 18-202 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 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 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 § 18-204(5) of this ordinance. 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 § 18-204(1), (3), and (4) of this chapter.

(b) Dischargers are exempt from the requirements of paragraph (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 CFR 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 CFR 261.30(d) and 261.33(e), requires a one (1) 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 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 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 CFR 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 ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under §18-202. 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.

18-205. 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 _____ 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 §18-205(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 correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section 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 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, Under the authority of Tennessee Code Annotated, § 69-3-124:

(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 _____ 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 § 18-205(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. Under the authority of Tennessee Code Annotated, § 69-3-126.

(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. Under the authority of Tennessee Code Annotated, § 69-3-127. 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 § 18-202(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of 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 non-compliance. (a) Insignificant non-compliance: For the purpose of this guide, insignificant non-compliance 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 § 18-205(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 non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).

(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 (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);

(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;

(f) Failure to accurately report noncompliance; or

(g) 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.

(h) 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.

18-206. 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 ordinance.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A to impose sanctions or penalties for the violation of this ordinance.

18-207. 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 § 18-202 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. The board of commissioners 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 § 18-207 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. Violation are categorized in the Enforcement Response Guide Table (Appendix A). 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.

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

18-208. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city.

CHAPTER 3

USER CHARGE SYSTEM

SECTION

18-301. Purpose of charges and fees. A schedule of charges and fees shall be adopted by the City of Clifton which will enable it to comply with the revenue requirements of section 204 of the Clean Water Act. Charges and fees shall be determined in a manner consistent with regulations of the federal grant program to ensure that sufficient revenues are collected to defray the cost of operating and maintaining, including replacement, adequate wastewater collection and treatment systems. Specific charges and fees shall be adopted by a separate ordinance, this section describes the procedure to be used in calculating the charges and fees. Additional charges and fees to recover funds for capital outlay, bond service costs, and capital improvements may be assessed by the City of Clifton. These charges and fees shall be recovered through the user classification established below. (1999 Code, § 18-201)

18-302. Classification of user. All users shall be classified by the superintendent either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics. (1999 Code, § 18-202)

18-303. Types of charges and sewer fees. The charges and fees as established in treatment works schedule of charges and fees, may include, but not be limited to:

(1) User classification charges;
(2) Fees for monitoring requested by user;
(3) Fees for permit applications;
(4) Appeal fees;
(5) Charges and fees based on wastewater constituents and characteristics;
(6) Fees for use of garbage grinders;

(7) Fees for holding tank wastes. (1999 Code, § 18-203)

18-304. Basis of determination of charges. Charges and fees may be based upon a minimum basic charge for each premise, computed on the basis of "normal wastewater" from a domestic premise with the following characteristics:

BOD_5	300 milligrams per liter
COD	600 milligrams per liter
TKN	60 milligrams per liter
NH_3-N	30 milligrams per liter
Suspended Solids	300 milligrams per liter
Fats, Oil, and Grease	100 milligrams per liter

The charges and fees for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, SS, NH_3 as N, chlorine demand, and volume. (1999 Code, § 18-204)

18-305. User charges. Each user shall be levied a charge for payment of bonded indebtedness of the treatment system and for that user's proportionate share of the operations and maintenance costs of the system. A surcharge will be levied against those users with wastewater that exceeds the strength of "normal wastewater."

The user charge will be computed from a base charge plus a surcharge. The base charge will be the user's proportionate share of the costs of Operation and Maintenance (O&M) including replacement for handling its periodic volume of "normal wastewater."

(1) Operation and maintenance user charges. Each user's share of operation and maintenance costs will be computed by the following formula:

$$Cu = \frac{Ct}{Vt} \times (Vu)$$

Where:
- Cu = User's charge for O&M per unit of time.
- Ct = Total O&M cost per unit of time.
- Vt = Total volume contribution from all users per unit of time.
- Vu = Volume contribution from a user per unit of time.

Operation and maintenance charges may be established on a percentage of water use charge only in the event that water use charges are based on a constant cost per unit of consumption.

(2) Surcharges. The surcharge will be the user's proportionate share of the O&M costs for handling its periodic volume of wastewater which exceeds the strength of BOD_5, suspended solids, and/or other elements in "normal wastewater" including "toxic wastes." The amount of the surcharge shall be determined by the following formula:

$$Cs = [(Bc \times B) + (Sc \times S) + (Pc \times P)]Vu$$

Where:

Cs	=	Surcharge for wastewaters exceeding the strength or "normal wastewater" expressed in dollars per billing period.
Bc	=	O&M cost for treatment of a unit of BOD_5, expressed in dollars per pound.
B	=	Concentration of BOD_5 from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.
Sc	=	O&M costs for treatment of a unit of suspended solids expressed in dollars per pound.
S	=	Concentration of suspended solids from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.
Pc	=	O&M cost for treatment of a unit of any pollutant which the publicly-owned treatment works is committed to treat by virtue of an NPDES permit or other regulatory requirement expressed in dollars per pound.
P	=	Concentration of any pollutant from a user above base level. Base levels for pollutants subject to surcharges will be established by the superintendent.
Vu	=	Volume contribution of a user per billing period (expressed in thousands of gallons).

The values of parameters used to determine user charges may vary from time to time. Therefore, the superintendent is authorized to modify any parameter or value as often as necessary. Review of all parameters and values shall be undertaken whenever necessary; but in no case less frequently than annually. (1999 Code, § 18-205)

18-306. Notification. Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services. (1999 Code, § 18-206)

18-307. <u>Biennial review of operation and maintenance charges</u>. The City of Clifton shall review not less often than every two (2) years the waste water contribution of users and user classes, the total costs of operation and maintenance of the treatment works and its approval user charge system. The town shall revise the charges for users or user classes to accomplish the following:

(1) Maintain the proportionate distribution of operation and maintenance costs among users and user classes as required herein;

(2) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and

(3) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. (1999 Code, § 18-207)

CHAPTER 4

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intakes." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross-connections." Any physical arrangement 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 device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross-connections.

(4) "Interconnection." Any system of piping or other arrangement whereby the public water system 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.

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[1]Municipal code references
Plumbing code: title 12.
Water and sewer system administration: title 18.
Wastewater treatment: title 18.

(5) "Person." Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or federal agency.

(6) "Public water system." The waterworks system which furnishes water to the City of Clifton for general use and which is recognized as the public water system by the Tennessee Department of Health and Environment. (Ord. #230, Feb. 2011)

18-402. Standards. The City of Clifton Public Water System is to comply with Tennessee Code Annotated, §§ 68-13-701 through 68-13-719 as well as the rules and regulations for public water systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (Ord. #230, Feb. 2011)

18-403. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the water superintendent which means the official in charge of the public water system for the City of Clifton. (Ord. #230, Feb. 2011)

18-404. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premise a separate source of water supply or store water in an uncovered or unsanitary storage reservoir from which the water store therein is circulated through a piping system, shall file with the water superintendent which means the official in charge of the public water system for the City of Clifton, a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnection. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (Ord. #230, Feb. 2011)

18-405. Inspections required. It shall be the duty of the Water Superintendent of the City of Clifton Tennessee, of the public water system to cause inspections to be made of 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-inspections, based on potential health hazards involved, shall be established by the water superintendent which means the official in charge of the public water system for the City of Clifton and as approved by the Tennessee Department of Health and Environment. (Ord. #230, Feb. 2011)

18-406. Right of entry for inspections. The water superintendent or authorized representative shall have the right to enter at any reasonable time, any property served by a connection to the Clifton Water System for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, bypasses, or interconnections.

On request, the owner, lessee, or occupant or any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (Ord. #230, Feb. 2011)

18-407. Correction of existing violations. Any person who now has cross-connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Water Superintendent of the City of Clifton Public Water System. The failure to correct conditions threatening the safety of public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-13-711, within a reasonable time and within the time limits set by the City of Clifton Public Water System, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and physically separate the public water system from the customer's on-site piping system in such a manner that the two (2) systems cannot again be connected by an unauthorized person. Where cross-connections, interconnections, auxiliary intakes, or bypasses are found that constitutes an extreme hazard of immediate concern of contaminating the public water system, the management of the water system shall require that immediate corrective action be taken to disconnect the public water system from the on-site piping system unless the imminent hazards is corrected immediately. (Ord. #230, Feb. 2011)

18-408. Use of protective devices. Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

(1) Impractical to provide an effective air-gap separation.

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or to the potable water of the system.

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.

(4) There is a likelihood that a protective measure may be subverted, altered, or disconnected.

The Water Superintendent of the City of Clifton Public Water System, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the City of Clifton Public Water System shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the water superintendent, or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises. The owner or occupant of the premises is responsible for the cost of device inspections and tests. A twenty-five dollar ($25.00) fee shall be assessed for the initial or routine annual testing of backflow prevention devices. A notice shall be issued for devices failing initial or annual tests and a thirty (30) day grace period allowed for repair. If the deficiency is not corrected during the grace period, the customer shall be notified that a penalty of twenty-five dollars ($25.00) will be assessed on their monthly water bill, and the fee will be reassessed for each subsequent visit after the thirty (30) day grace period.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one (1) unit has been installed and the continuance of service is critical, the water superintendent, shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the Water Superintendent of the City of Clifton Public Water System. The failure to maintain backflow prevention devices in proper working order shall be ground for discontinuing water service to any premises. Likewise the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such condition or defect to the satisfaction of the City of Clifton Public Water System. (Ord. #230, Feb. 2011)

18-409. Unpotable water to be labeled. The potable water system made available to premises served by the public water system be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which not supplied by the potable system must be labeled in a conspicuous manner as: Minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. (Ord. #230, Feb. 2011)

18-410. Violations and penalty. (1) The requirements contained herein shall apply to all premises served by the City of Clifton Public Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of water distribution system against the entrance of contamination which may render the water unsafe health wise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the City of Clifton corporate limits.

(2) Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not to exceed fifty dollars ($50.00), plus costs. Each violation shall be considered a separate offense. (Ord. #230, Feb. 2011, modified)

CHAPTER 5

WATER

SECTION

18-501. Schedule of rates. A minimum bill of two thousand (2,000) gallons will be charged to all accounts at the following rates, unless agreed upon by a separate contract voted upon by the board of commissioners:

Water inside city	$4.18 per thousand gallons
Sewer inside city	$4.18 per thousand gallons
Water outside city	$8.35 per thousand gallons
Sewer outside city	$8.35 per thousand gallons
CCA water	$3.33 per thousand gallons
CCA sewer	$5.01 per thousand gallons

The following shall be a list of tap charges for the City of Clifton utilities with other classifications than those noted being addressed on a case by case basis:

Basic water tap inside city	$ 400.00
Outside water tap fee	$ 775.00
Basic residential sewer tap	$3,000.00
Outside residential sewer tap	$4,000.00

*With a ($15.00) inspection fee for sewer taps

Larger taps based upon the most current utility policies adopted by the board of commissioners.

The following shall be a list of utility service fees for the City of Clifton utilities:

After hour service fee	$ 25.00
Reconnect fee for non-payment of all city utilities for property owners	$ 50.00
Reconnect fee of non-payment for all city utilities for property renters/lessees	$ 100.00
Returned check fee	$ 30.00
Water turn off fee	$ 2.00
Meter activation fee	$ 50.00
Meter activation fee for property renters/lessees	$ 100.00

Sewer inspection fee	$	15.00
Utility bill administration fee	$	2.00

These rates and fees shall take effect July 1, 2010, and remain in effect until amended by future ordinance. (Ord. #225, May 2010, as amended by Ord. #236, June 2012, and Ord. #246, April 2015)

18-502. Tampering with water meter unlawful. It is hereby declared to be a misdemeanor, for any person to tamper with any water meter in the City of Clifton without the permission of the city manager, and it is further declared to be a misdemeanor for any person to connect or disconnect water service to any house, be the same his own or that of another, or for any person to make any connection with the city water system whereby service becomes available to a particular house or building without the expressed consent of the city manager.

Any person found guilty of violating the terms of this section by the city recorder shall be fined not less than two dollars and fifty cents ($2.50) nor more than fifty dollars ($50.00) and shall be taxed with the cost incident to the proceedings for the violation hereof. (1999 Code, § 18-402)

18-503. Use of public water supply required. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley, property or right-of-way in which there is now located or may in the future be located a public water supply of the City of Clifton is hereby required at his expense to install suitable plumbing facilities therein, and to connect such facilities directly with public water supply in accordance with the provisions of the City of Clifton, within ninety (90) days after date of official notice to do so, provided that said public water supply is accessible. (1999 Code, § 18-403)

18-504. City may refuse service. The city may refuse to connect water service to any location if it is determined that the plumbing system, including the service line(s) from the meter, is not in proper working order. (1999 Code, § 18-404)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

CHAPTER 1

NATURAL GAS SERVICE

SECTION

19-101. Natural gas service rates. The City of Clifton shall set and adjust natural gas rates as needed per the purchase gas adjustment ordinance.[1]

[1]Natural gas rates, and any adjustments, are available in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

CHAPTER 1

AIRPORT AUTHORITY

SECTION

20-101. Created and composition. There is hereby created and established a Municipal Airport Authority for the City of Clifton, Tennessee, consisting of five (5) commissioners of the authority, appointed by the City Legislative Body of Clifton, Tennessee. The members of the Municipal Airport Authority may be members of the City Legislative Body or citizens of the City of Clifton, Tennessee. (1999 Code, § 20-101)

20-102. Appointment of members; terms; vacancies. The city legislative body shall appoint and approve the commissioners of the municipal airport authority as provided by Tennessee Code Annotated, § 42-1-103, and otherwise, as provided by the laws of the State of Tennessee. The commissioners who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4), and five (5) years, respectively, but thereafter, each commissioner shall be appointed for a term of five (5) years, except that vacancies occurring otherwise than by the expiration of terms shall be filled for the unexpired term, in the same manner as the original appointment. (1999 Code, § 20-102)

20-103. Present members. Current commissioners of the municipal airport authority are on file at city hall. (1999 Code, § 20-103, modified)

20-104. Oath of office. The commissioners of the municipal airport authority shall, as provided by Tennessee Code Annotated, § 42-3-103, present to the secretary of state an application signed, subscribed and sworn to by each

of said commissioners before an officer authorized by the laws of the State of Tennessee, to take and certify oaths, who shall certify upon the application that he personally knows the commissioners, and knows them to be the officers as appointed in the application and that each subscribed and swore thereto in the officer's presence, which will set forth (without any detail other than mere recital) the following:

(1) The governing body of the municipality by ordinance or resolution created a municipal airport authority and thereafter appointed them as commissioners;

(2) The name and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office and that they desire the municipal airport authority to become a public body corporate and politic under this chapter;

(3) The term of office of each of the commissioners;

(4) The name which is proposed for the corporation; and

(5) The location of the principal office of the proposed corporation. (1999 Code, § 20-104)

20-105. Authority. The municipal airport authority is hereby vested with all authority to control and regulate any and all operations of the municipal airport located in the corporate jurisdiction of the City of Clifton, Tennessee, as provided by the laws of the State of Tennessee, and in accordance with the rules adopted by the city legislative body and/or duly created and established municipal airport authority. (1999 Code, § 20-105)

CHAPTER 2

CIVIL DEFENSE

SECTION

20-201. County to be called for special assistance. Upon the necessity of additional manpower and equipment, the Wayne County Civil Defense may be called for said special assistance on the following grounds:

(1) The Wayne County Civil Defense will be mobilized, or so much thereof as determined necessary by the Director of the Wayne County Civil Defense, upon authority of the Mayor of Clifton, or upon the request of the Clifton City Manager and Chief of Police. The city manager and chief of police must act jointly to institute the request of need; whereas, the mayor may act upon his authority alone.

(2) During the period of necessity and/or need, the Wayne County Civil Defense will operate under the direction and supervision of the chief of police, or in his absence, the Mayor of Clifton.

(3) It is further understood that the chain of command above related will only apply to situations wherein the Wayne Count Civil Defense has not been mobilized by the President of the United States of America, The Governor of the State of Tennessee, or the Wayne County Judge, or the Director of the Wayne County Civil Defense, or his executive officer. (1999 Code, § 20-201)

APPENDIX A

PLAN OF OPERATION FOR

THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

FOR THE EMPLOYEES OF CITY OF CLIFTON

(Ord. #239, March 2013)

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN FOR THE EMPLOYEES OF CITY OF CLIFTON

APPENDICES

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 Clifton.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Board of Commissioners 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 Clifton and includes each administrative department, board, commission, division, or other agency of the City of Clifton.

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 Clifton.

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 permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

g. "PERSON" means one or more 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, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYER'S 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 and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employer's 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 compiled 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. EMPLOYEE'S 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 promulgated under the Act.

d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program 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 applicable 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 as 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

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.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

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 of 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 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 employee's 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 ordinance, 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 employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

g. Advance Notice of inspections

    1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary

adjustments in an attempt to create 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, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.

i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. 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 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 be 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, statue, 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: City Manager/Safety Director, Occupational Safety and Health 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.}

An Example:

City Hall (General Government & Police Dept.) - 15 FTE
142 Main Street
Clifton, TN 38425
931-676-3370

Fire Hall - 5 FTE
304 Main Street
Clifton, TN 38425
931-676-5206

Wastewater Treatment Plant - 2 FTE
Carroll Drive
Clifton, TN 38425
731-925-972

Water Plant - 3 FTE
E. Water Street
931-676-3718

Public Works Dept. - 3 FTE
140 River Ridge Road
Clifton, TN 38425
931-676-3702

Parks & Recreation Department - 1 FTE
Smith-Barnes Road
931-676-3624

TOTAL NUMBER OF EMPLOYEES: 29 FTE

{Once each work location has been listed, record the total number of employees that the City employees}

APPENDIX II - NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF CITY OF CLIFTON

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 Manager.

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 the Board of Commissioners 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 the City of Clifton is available for inspection by any employee at City Hall, City Recorder's Office during regular office hours.

_____

Signature: City Manager Date

_____

Signature: Mayor 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 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 FUNDING,
ESTIMATE OF TOTAL BUDGET FOR:

OR Use This Statement:

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that (Name of local government) City of Clifton 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 after 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 record keeper 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 record keeper 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 record keeper 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 supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper 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 record keeper 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 or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since 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.

CITY OF CLIFTON, TENNESSEE

ORDINANCE NO. 263

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF CLIFTON, TENNESSEE.

WHEREAS some of the ordinances of the City of Clifton are obsolete, and

WHEREAS some of the other ordinances of the City are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Commissioners of the City of Clifton, 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 "Clifton Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF CLIFTON, AS FOLLOWS:

Section 1. Ordinances codified. The ordinances of the City of Clifton 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 "Clifton Municipal Code," hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with 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 city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any 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 city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter of section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the impositions of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of commissioners, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect no sooner than fifteen (15) days after first passage thereof, provided that it is read two (2) different days in open session before its adoption, and not less than one-week elapses between first and second readings, the welfare of the city requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading 10-23, 2017.

Passed 2nd reading 11-27, 2017.

Randy L. Brown
Mayor

Barbara A. Culp
City Recorder