

**THE  
SPARTA  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

June 1999

Change 10, May 19, 2011

**CITY OF SPARTA, TENNESSEE**

**MAYOR**

Jeff Young

**VICE MAYOR**

Robert Verble

**ALDERMEN**

Jim Floyd  
Hoyt Jones  
Robert Officer  
Judy Payne  
Debbie Sopha

**RECORDER**

Tonya Tindle

## **PREFACE**

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

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

By utilizing the table of contents and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc...) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the 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 8 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 Sandy Selvage, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini  
Codification Specialist

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE  
CITY CHARTER<sup>1</sup>**

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<sup>1</sup>The charter for the City of Sparta contains no provisions on ordinance adoption procedures. See § 1-103 in the code.

**ORDINANCE NO. 99-718**

**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF SPARTA, TENNESSEE.**

WHEREAS some of the ordinances of the City of Sparta 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 Mayor and Aldermen of the City of Sparta, 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 "Sparta Municipal Code," now, therefore:

**BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SPARTA, TENNESSEE, THAT:**

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Sparta 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 or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to 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 from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1<sup>st</sup> reading APRIL 15, 1999

Passed 2<sup>nd</sup> reading MAY 6, 1999

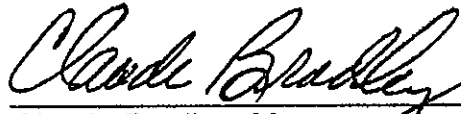
Passed 3<sup>rd</sup> reading MAY 20, 1999

Publication Date \_\_\_\_\_

Public Hearing Held MAY 20, 1999



CITY OF SPARTA

  
Claude Bradley, Mayor

Attest:



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Tonya R. Tindle, City Recorder

<sup>1</sup>State law reference

*For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated § 40-24-101 et seq.*

## **TITLE 1**

### **GENERAL ADMINISTRATION<sup>1</sup>**

#### **CHAPTER**

1. MAYOR AND ALDERMEN.
2. CITY ADMINISTRATOR.
3. RECORDER.
4. ETHICS.

#### **CHAPTER 1**

### **MAYOR AND ALDERMEN<sup>2</sup>**

#### **SECTION**

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. Passage of ordinances.
- 1-104. Passage of resolutions.
- 1-105. Mayor's salary.
- 1-106. General supervision of officers.
- 1-107. Authority to summon assistance.
- 1-108. [Deleted.]
- 1-109. Appointment of special committees.
- 1-110. [Deleted.]
- 1-111. Office of vice mayor; term; duties.
- 1-112. Vice mayor's compensation.
- 1-113. Aldermen's compensation.

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#### <sup>1</sup>Charter references

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

#### Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

#### <sup>2</sup>Charter references

Compensation: § 6.

Oath of office: § 9.

Powers: § 3.

Term of office: § 3.

Vacancy in office: § 3.

**1-101. Time and place of regular meetings.** The board of mayor and aldermen shall hold regular meetings at 5:00 P.M. on the first and third Thursdays of each month at the city hall. (1978 Code, § 1-101, as amended by Ord. #97-698, March 1997)

**1-102. Order of business.** At all regular meetings of the board of mayor and aldermen the following order of business shall be observed:

- (1) Calling of the roll.
- (2) Reading and approving minutes of the previous meeting of the board.
- (3) Introduction of resolutions.
- (4) Introduction of ordinances and passing first reading.
- (5) Ordinances on second reading.
- (6) Resolutions lying over from previous meeting.
- (7) Ordinances on third and final reading.
- (8) Presenting and passing on claims.
- (9) Reports of standing committees.
- (10) Reports of special committees.
- (11) Miscellaneous and unfinished business.
- (12) Election of officers or filling vacancies. (1978 Code, § 1-102)

**1-103. Passage of ordinances.** (1) Legislative action which must be exercised by ordinance. Except as otherwise provided by general law, or the charter of the City of Sparta, legislative action of the board shall be by ordinance when granting, renewing, or extending public franchises; creating, abolishing, or combining departments or offices; authorizing the borrowing of money; regulating the rate charged for its services by a public utility; fixing fees, service charges and utility rates; exercising the police power; levying taxes; adopting the budget; providing a fine or other penalty or establishing a rule or regulation for violation of which a fine or other penalty is imposed; or amending or repealing an existing ordinance.

(2) Passage of an ordinance. All ordinances shall be assigned a number by the recorder by fiscal year and shall begin with the clause, "Be it ordained by the Board of Mayor and Aldermen of the City of Sparta, Tennessee:" An ordinance may be introduced by any member of the board. Every ordinance shall be passed by the board of mayor and aldermen on two different days, at regular, special, or adjourned meetings. Except in the ordinance adopting the budget, no material or substantial amendment may be made on final passage, unless such amendment is passed in the same manner as an amendment to an existing ordinance. Every ordinance shall become effective upon final passage unless by its terms the effective date is deferred. Every ordinance upon final passage shall be signed by the presiding officer of the board, and shall immediately be taken charge of by the recorder, authenticated by the signature of the recorder, and filed and preserved in the recorder's office. (1978 Code, § 1-103, as replaced by Ord. #02-762, Jan. 2003)

**1-104. Passage of resolutions.** All resolutions shall lay over at least one day before being finally considered. Provided, however, that two-thirds (2/3) of all the members of the board present by vote may suspend the rules for the immediate consideration of any resolution. (1978 Code, § 1-104)

**1-105. Mayor's salary.** The salary for the mayor shall be five hundred dollars (\$500) per month.<sup>1</sup> (1978 Code, § 1-105, as amended by Ord. #02-746, July 2002)

**1-106. General supervision of officers.** The mayor shall have general supervision and control over the officers of the municipality, and may when he deems it necessary or proper inquire into the condition of their official business, and may call upon any officer of the municipality for any information pertaining to his office. (1978 Code, § 1-106)

**1-107. Authority to summon assistance.** The mayor shall have power to call to his assistance the citizens of the municipality to aid him in suppressing or dispersing any riot, unlawful assembly or breach of the peace. (1978 Code, § 1-107)

**1-108. [Deleted.]** (1978 Code, § 1-108, as deleted by Ord. #08-834, Oct. 2008)

**1-109. Appointment of special committees.** The mayor shall from time to time appoint such special committees and commissions as may be authorized or directed by the board of mayor and aldermen. (1978 Code, § 1-109)

**1-110. [Deleted.]** (1978 Code, § 1-110, as deleted by Ord. #08-834, Oct. 2008)

**1-111. Office of vice mayor; term; duties.** (1) The board of mayor and aldermen shall elect a vice mayor who shall also be an alderman.

(2) The election of the vice mayor shall occur at the first regular meeting of April next following the election of the mayor and three (3) aldermen; the vice mayor so elected shall serve a term of two (2) years.

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<sup>1</sup>Section 4 of Ord. #02-746 (July 31, 2000) provides:

"The adjustments in pay for the offices of mayor, vice-mayor and aldermen as specified hereinabove shall become effective upon the expiration of the terms of the office of each such member of the Sparta Board of Mayor and Aldermen serving at the time of passage of this ordinance."

(3) The vice mayor shall preside at meetings of the board of mayor and aldermen in the absence of the mayor, and shall further exercise the powers, duties and responsibilities of the office of mayor in the event of the mayor's temporary absence or incapacity to perform such duties. The vice mayor shall serve as a member of the Board of Directors of the Sparta-White County Chamber of Commerce, and on such other boards, commissions, committees or agencies as request or require an elected official of the city to serve, it being in the discretion of the mayor as to the proper division of such responsibilities between himself/herself and the vice mayor. (1978 Code, § 1-111)

**1-112. Vice mayor's compensation.**<sup>1</sup> The vice mayor shall receive for his services as such the sum of two hundred dollars (\$200.00) per month. The vice mayor's compensation shall be deemed to include the ordinary payment allowed to aldermen for attendance at meetings. The vice mayor's compensation shall not be decreased during his/her term of office as such. (1978 Code, § 1-112, as amended by Ord. #02-746, July 2002)

**1-113. Aldermen's compensation.**<sup>1</sup> The pay for Aldermen of the City of Sparta is hereby set at fifty dollars (\$50) per meeting for attendance at regular and called meetings of the board of mayor and aldermen. (as added by Ord. #02-746, July 2002)

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<sup>1</sup>Section 4 of Ord. #02-746 (July 31, 2000) provides:

"The adjustments in pay for the offices of mayor, vice-mayor and aldermen as specified hereinabove shall become effective upon the expiration of the terms of the office of each such member of the Sparta Board of Mayor and Aldermen serving at the time of passage of this ordinance."

## CHAPTER 2

### CITY ADMINISTRATOR

#### SECTION

1-201. City administrator; appointment thereof.

1-202. Duties of administrator.

**1-201. City administrator; appointment thereof.** There is hereby created the office of City Administrator of the City of Sparta. The Board of Mayor and Aldermen of the City of Sparta shall appoint said administrator, who shall serve at the pleasure of the board of mayor and aldermen, provided, however, that said board may contract with the city administrator for a period not to exceed twelve months with the commencement and termination period of said contract or contracts to coincide with the biennial election of the city recorder. The board of mayor and aldermen shall determine appropriate compensation and employee fringe benefits for the city administrator which may, but not necessarily shall, be set after consultation and negotiation between the board of mayor and aldermen and the candidate or incumbent city administrator. Four (4) positive votes from among the members of the board of mayor and aldermen shall be required to employ and/or discharge an individual for this position. The administrator shall be selected solely on the basis of education, administrative background, and experience. The administrator shall give full time to the duties of the office. (1978 Code, § 1-201, as amended by Ord. #11-859, May 2011)

**1-202. Duties of administrator.** It shall be the duty of the city administrator to supervise and coordinate all administrative activities of each department head directly under the control of the board of mayor and aldermen, in accordance with such policies and procedures of organization as may be adopted by said board and filed with the city recorder. The administrator shall also have the following duties with respect to the administration of the affairs of the city, under the control of the board of mayor and aldermen:

(1) To make recommendations to the board of mayor and aldermen for improving the quality and quantity of public services to be rendered by the City of Sparta to the citizens thereof.

(2) To keep the board of mayor and aldermen fully advised as to the condition and needs of the city, including an inventory of property and equipment, and to recommend necessary repairs or replacements.

(3) To recommend to the board of mayor and aldermen necessary programs or projects involving public works or public improvements to be undertaken by the city and the priority of same.

(4) To act as purchasing agent subject to the law of the State of Tennessee and any ordinances, policies, rules and regulations established by the board of mayor and aldermen and to recommend changes in such ordinances,

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policies, rules and regulations as deemed necessary to establish effective and efficient operating procedures.

(5) To direct the enforcement of all personnel rules, regulations and policies which may be adopted by the board of mayor and aldermen and to recommend to said board the employment, dismissal, promotion or demotion of any employee of the city who is responsible to the board of mayor and aldermen, and to keep personnel files on all city employees. The city administrator shall review the findings and decisions of the respective department heads involved in dismissals, promotions and demotions, and shall either approve or reject same. The city administrator's decisions shall be reviewable by the board of mayor and aldermen, or as it may direct. The city administrator shall review

applications submitted for department head positions, interview applicants, and make recommendations to the board of mayor aldermen.

(6) To review, approve and recommend to the board of mayor and aldermen an annual budget and capital program for each department of the city coming under the direct supervision of the board of mayor and aldermen. The city administrator shall also have direct responsibility for the administration of the budget as approved by the board of mayor and aldermen.

(7) To perform such other specific duties as may be designated in official sessions of the board of mayor and aldermen. (1978 Code, § 1-202, as amended by Ord. #06-817, Nov. 2006)



## CHAPTER 3

### RECORDER<sup>1</sup>

#### SECTION

- 1-301. Bond required.
- 1-302. Duty to keep financial records; availability for inspection.
- 1-303. Duties as clerk to board of mayor and aldermen.
- 1-304. Duties as collector.
- 1-305. Recorder to be treasurer.
- 1-306. Time of election of city recorder established.

**1-301. Bond required.** Before entering upon the duties of his office the recorder shall execute bond with good and sufficient security in the amount prescribed by the board of mayor and aldermen, and conditioned that he will faithfully account for all money that may or ought to be collected by him by virtue of his office, and that he will well and truly perform all other duties pertaining to his office; which bond shall be acknowledged by the recorder and his sureties before the mayor and approved by him. (1978 Code, § 1-301)

**1-302. Duty to keep financial records; availability for inspection.** It shall be the duty of the recorder to keep, in a book provided for that purpose, a correct account of all collections and disbursements of the funds of the municipality, showing at all times in detail the state of each fund. This book together with all other records of the municipality shall be open at all times to inspection of the finance committee or others appointed by the mayor for that purpose. (1978 Code, § 1-302)

**1-303. Duties as clerk to board of mayor and aldermen.** The recorder shall attend all regular and adjourned meetings of the board of mayor and aldermen and shall keep a record of all their proceedings in a well bound book, which shall be read by him and after being approved by the mayor and aldermen shall be signed by the mayor and recorder. (1978 Code, § 1-311)

**1-304. Duties as collector.** It shall be the duty of the recorder to collect all taxes, fines and forfeitures and all money due the municipality from whatever source. (1978 Code, § 1-312)

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<sup>1</sup>Charter references  
Bond required: § 9.  
Judicial powers: § 11.

**1-305. Recorder to be treasurer.** The recorder shall be treasurer of the municipality. (1978 Code, § 1-313)

**1-306. Time of election of city recorder established.** The city recorder shall be elected by a majority vote of the members of the board of mayor and aldermen for a two year term in accordance with the provisions of § 4 of the Charter of the City of Sparta, Tennessee. Given the provisions of § 3 of the Charter of the City of Sparta, Tennessee, that specify city elections to be held every two years on the first Saturday in April, the election of the city recorder shall be conducted at the first regular July meeting of the board of mayor and aldermen that follows said city elections. (1978 Code, § 1-314)

## CHAPTER 4

### ETHICS

#### SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in nonvoting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

**1-401. Applicability.** This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #06-816, Oct. 2006)

**1-402. Definition of "personal interest."** (1) For purposes of §§ 1-403 and 1-104 "personal interest" means:

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

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

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), 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 a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #06-816, Oct. 2006)

**1-403. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #06-816, Oct. 2006)

**1-404. 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. (as added by Ord. #06-816, Oct. 2006)

**1-405. Acceptance of gratuities, etc.** An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the 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. (as added by Ord. #06-816, Oct. 2006)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #06-816, Oct. 2006)

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

(2) An official may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #06-816, Oct. 2006)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #06-816, Oct. 2006)

**1-409. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #06-816, Oct. 2006)

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

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

(b) The city attorney may request 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 has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or

civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #06-816, Oct. 2006)

**1-411. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #06-816, Oct. 2006)

## TITLE 2

### BOARDS AND COMMISSIONS, ETC.

#### CHAPTER

1. CITY BEAUTIFUL COMMISSION.
2. INDUSTRIAL DEVELOPMENT BOARD.
3. PARKS AND RECREATION ADVISORY BOARD.
4. TREE BOARD.

#### CHAPTER 1

### CITY BEAUTIFUL COMMISSION

#### SECTION

- 2-101. Established, membership, organization, officers.  
2-102. Duties, powers.  
2-103. Reports required.

**2-101. Established, membership, organization, officers.** There is hereby created and established a city beautiful commission which shall be composed of not more than fifteen (15) members. Such members shall be of lawful age and shall be residents of this municipality. They shall be appointed by the mayor to serve at his pleasure without compensation. To aid the city beautiful commission in carrying out its duties and powers, which are set forth hereinafter, it shall have such organization and officers as the membership shall from time to time decide upon. (1978 Code, § 1-701)

**2-102. Duties, powers.** The duties and powers of the city beautiful commission shall be to study, investigate, develop and carry out plans for improving the health, sanitation, safety and cleanliness of the municipality by beautifying the streets, highways, alleys, lots, yards and other similar places in the municipality; to aid, in the prevention of fires, diseases and other casualties by the removal and elimination of trash and other debris from the streets, highways, alleys, lots, yards, plots and other similar places; to encourage the placing, planting and preservation of trees, flowers, plants, shrubbery and other objects of ornamentation in the municipality; protect song birds and other wild fowl; advise with and recommend plans to other agencies of the municipality for the beautification of the municipality, and otherwise promote public interest in the general improvement of the appearance of the municipality; provided however, that nothing herein shall be construed to abridge or change the powers

and duties of the other commissions, departments, boards and like agencies of the municipality. (1978 Code, § 1-702)

**2-103. Reports required.** It shall be the duty of the city beautiful commission, on the first day of January and July of each year, to file with the mayor a written report of the work performed and results accomplished. (1978 Code, § 1-703)



## CHAPTER 2

### INDUSTRIAL DEVELOPMENT BOARD

#### SECTION

2-201. Board approved.

2-202. Title of board.

2-203. Board of directors.

**2-201. Board approved.** A petition having been filed with the board of mayor and aldermen, signed by not less than three (3) duly qualified electors of and taxpayers in the municipality, seeking permission to apply for the incorporation of an industrial development board, it is hereby found that it is wise, expedient, necessary or advisable that such board be formed; and said petitioners are hereby authorized to proceed to form such board; and the form of certificate of incorporation proposed to be used is hereby approved. (1978 Code, § 1-1101)

**2-202. Title of board.** The title of the industrial development board hereby authorized shall be the Industrial Development Board of the Municipality of Sparta, Tennessee. (1978 Code, § 1-1102)

**2-203. Board of directors.** The board of directors of the industrial development board shall consist of seven (7) directors. The initial directors named in the certificate of incorporation shall serve: two (2) directors for terms of two (2) years, two (2) directors for terms of four (4) years and three (3) directors for terms of six (6) years. Thereafter, the terms of all directors shall be six (6) years. (1978 Code, § 1-1103)

## CHAPTER 3

### **PARKS AND RECREATION ADVISORY BOARD**

#### **SECTION**

2-301. Board established, purpose.

2-302. Membership.

2-303. First meeting.

2-304. Ex-officio members.

2-305. Reports required.

**2-301. Board established, purpose.** There is hereby established according to the provisions of the Tennessee Code Annotated (TCA), § 11-24-103(b)(1), a Parks and Recreation Advisory Board for the purpose of:

(1) Overseeing the administration of the city's parks and recreation facilities,

(2) Facilitating the coordination of community recreation programs and activities as deemed appropriate and necessary,

(3) Coordinating with the local governing bodies as appropriate for the planning and implementation of capital improvements related to the various parks and recreation programs, and

(4) Other duties and assignments that may from time to time be assigned by the Sparta Board of Mayor and Aldermen. (Ord. #97-700, May 1997)

**2-302. Membership.** The Parks and Recreation Advisory Board will be composed of (5) five members who are appointed by the mayor and approved by the Sparta Board of Mayor and Aldermen. The terms of the first board members shall be staggered as follows:

One member for a (1) year term.

One member for a (2) year term.

One member for a (3) year term.

One member for a (4) year term.

One member for a (5) year term.

Thereafter, board members will serve for terms of five (5) years.

Membership requirements for future joint city/county recreation boards will be stipulated in the terms of the interlocal agreements which authorize the establishment of any such joint board. (Ord. #97-700, May 1997)

**2-303. First meeting.** The members who are appointed to serve on the first board shall meet within thirty (30) days from the passage of this ordinance for the purpose of electing a chairman and adopting by-laws. (Ord. #97-700, May 1997)

**2-304. Ex-officio members.** The Sparta Parks and Recreation Director will serve as ex-officio member of this board and shall be responsible for coordinating meeting places, announcements, minutes and logistical matters in order to expedite the board's function. The Mayor of Sparta shall serve as an additional ex-officio member of the board. (Ord. #97-700, May 1997)

**2-305. Reports required.** Copies of all minutes of the Parks and Recreation Advisory Board shall be sent to the city recorder who will be responsible for disseminating them to the members of the Sparta Board of Mayor and Aldermen at the first regular meeting following a meeting of the Parks and Recreation Board and in a timely manner to any other agency, body, or person as is deemed necessary. (Ord. #97-700, May 1997)

## CHAPTER 4

### **TREE BOARD**

#### **SECTION**

2-401. Tree board established.

2-402. Terms of office.

2-403. Operation and compensation.

2-404. Duties and responsibilities.

**2-401. Tree board established.** There is hereby created and established a Tree Board for the City of Sparta, Tennessee, which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the board of aldermen. A representative of the Tennessee Department of Agriculture, Division of Forestry shall serve on the board as an ex-officio member for the purpose of providing technical assistance and advice to the tree board. (as added by Ord. #01-736, July 2001)

**2-402. Terms of office.** The term of the five persons to be appointed by the mayor shall be three (3) years except that the term of two of the members appointed to the first board shall be for one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. All five members of the tree board may succeed themselves in office and there shall be no limitation on the number of terms an individual may serve. (as added by Ord. #01-736, July 2001)

**2-403. Operation and compensation.** The tree board shall choose its own officers, make its own rules and regulations and keep a record of its proceedings. A majority of the members shall be a quorum for the transaction of business. Members of the tree board shall serve without compensation. Meetings shall be held at a time and day to be established by the members of the tree board. Meetings are to be open to the public and proper notice shall be given of meeting time, date, and place in accordance with applicable state statutes. (as added by Ord. #01-736, July 2001)

**2-404. Duties and responsibilities.** The duties of the tree board shall include, but not be limited to the following:

- (1) Prepare a tree plan for the community.
- (2) Coordinate tree-related activities.
- (3) Conduct an Arbor Day ceremony.
- (4) Provide tree information to the community.
- (5) Maintain a recommended tree list for the community.
- (6) Recognize groups and individuals completing tree projects.

- (7) Coordinate publicity concerning trees and tree programs.
- (8) Coordinate donations of trees or money to purchase trees.
- (9) Adopt rules and regulations pertaining to the tree program.
- (10) Perform other tree related duties and opportunities that arise from time to time.
- (11) Recommend ordinances to the board of mayor and aldermen that the tree board finds appropriate.
- (12) Coordinate and facilitate activities as necessary in order for Sparta to achieve the designation of a "tree city" by the National Arbor Day Association. (as added by Ord. #01-736, July 2001)

### **TITLE 3**

### **MUNICIPAL COURT**

#### **CHAPTER**

1. CITY COURT.
2. CITY JUDGE.
3. COURT ADMINISTRATION.
4. BONDS AND APPEALS.
5. CITATIONS, WARRANTS, AND SUMMONSES.

#### **CHAPTER 1**

#### **CITY COURT**

#### **SECTION**

- 3-101. City court established.
- 3-102. Sessions of city court.
- 3-103. Office of city court clerk.
- 3-104. Duties of city court clerk.
- 3-105. City litigation tax; court costs.
- 3-106. Commencement of action in city court.
- 3-107. Failure to appear.

**3-101. City court established.** There is hereby established the City Court of Sparta, Tennessee, to have jurisdiction over misdemeanors of the State of Tennessee committed within the corporate limits of Sparta and violations of ordinances of the City of Sparta, concurrent with the General Sessions Court of White County, Tennessee. (1978 Code, § 1-2A01)

**3-102. Sessions of city court.** The city court shall meet at least once each week, on a day not scheduled for the holding of General Sessions Court in White County. The judge of the city court may, in his or her discretion, convene court at such other times as shall be convenient to him or her. The city court shall convene at such hour as may be suitable to the city judge, provided that the city judge shall designate a normal day and hour for the convening of court in order to facilitate certainty in the scheduling of matters before him. (1978 Code, § 1-2A11)

**3-103. Office of city court clerk.** There is hereby established the office of city court clerk. The city court clerk shall be an employee of the City of Sparta, under the direct guidance, jurisdiction and control of the city judge and the city administrator. The city court clerk may be designated to perform other duties in addition to those of city court clerk provided that time permits same.

The city court clerk shall be a regular employee of the City of Sparta, subject to all of the terms and conditions of employment as set forth in § 4-201, et seq. of the Sparta Municipal Code. (1978 Code, § 1-2A12)

**3-104. Duties of city court clerk.** The city court clerk shall be charged with the following responsibilities:

- (1) Of keeping all records pertaining to the operation of the city court.
- (2) Of keeping, in a well-bound book, a docket of all cases brought in the city court.
- (3) Of issuing warrants, affidavits of complaint, subpoenas, capias, or such other process or documents as may be necessary and proper in the commencement or prosecution of a case.
- (4) Of collecting all fines and costs levied against persons, firms and corporations by judgment of the city court judge for violations of law in cases therein.
- (5) Of keeping appropriate and proper financial records pertaining to the operation of the city court showing receipts and disbursements, in accordance with such rules, regulations or procedures for financial reporting and fiscal responsibility as may be prescribed from time to time by the city administrator or other Chief Fiscal Agent of the City of Sparta.
- (6) Of doing such other acts and performing such other duties as may be required by the city judge for the more economical, efficient operation of the city court. (1978 Code, § 1-2A13)

**3-105. City litigation tax; city court costs.** (1) There is hereby levied on all cases brought in the city court, in addition to the state litigation tax, a city court cost in the sum of seventy dollars (\$70), to defray the cost of operation of the court.

(2) For trial of state and municipal offenses in city court, the cost incident thereto, in addition to the litigation tax set out hereinabove, shall be equal to any litigation taxes lawfully enacted by the State of Tennessee and chargeable and collectable by the city court, and in addition thereto any and all fees authorized by statute in regard to the services of law enforcement and/or court officers.

(3) The costs shall be taxed against the defendant; if judgment is rendered against him/her. In the event that the case is prosecuted by a law enforcement or codes enforcement officer, and the case is dismissed, the costs shall be waived.

(4) In any cause in which a private citizen files a complaint in the city court, the judge thereof shall have full discretion to assess costs against the complainant in the event that the charge is determined without merit or the complainant fails to appear for prosecution thereof.

(5) The city court cost in the amount established in paragraph (1) above, shall be assessed against all actions commenced by citation issued by a

duly authorized and acting law enforcement or ordinance enforcement officer for the purpose of defraying the administrative costs for operation of the city court. (1978 Code, § 1-2A16, as amended by Ord. #01-735, June 2001, and Ord. #01-741, Nov. 2001)

**3-106. Commencement of action in city court.** All actions in city court shall be commenced by citation issued by a duly authorized and acting law enforcement or other ordinance enforcement officer, or by warrant issued by the city court clerk based upon an affidavit of complaint setting forth the offense charged, signed by a citizen with knowledge of the facts constituting the offense. The citation or affidavit of complaint shall set a date and time for trial of the cause. (1978 Code, § 1-2A17)

**3-107. Failure to appear.** Any person who fails to appear in city court to answer a summons or citations for the violation of any ordinance or provision of this code shall be guilty of a civil offense punishable under the general penalty provision of this code. (as added by Ord. #03-766, June 2003)



## CHAPTER 2

### CITY JUDGE

#### SECTION

- 3-201. Office of city judge established.
- 3-202. Qualifications.
- 3-203. Term of office.
- 3-204. Vacancy in office.
- 3-205. Oath of office.
- 3-206. Bond.
- 3-207. Compensation.
- 3-208. Temporary absence of disability.
- 3-209. Removal from office.
- 3-210. Jurisdiction.
- 3-211. Contempt powers.

**3-201. Office of city judge established.** There is hereby established the office of city judge. The city judge shall have and be vested with the judicial powers and functions of the recorder as provided in § 11 of the Charter of the City of Sparta, Tennessee, and shall further be vested with all judicial powers and functions allowable to the judges of city courts or municipal courts by the laws of the State of Tennessee. The city judge shall be subject to the provisions of law and of the charter of the City of Sparta governing the municipal court over which the recorder has presided. (1978 Code, § 1-2A02)

**3-202. Qualifications.** The city judge shall at election and at all time thereafter during his or her term or period of service as such have the following minimum qualifications:

He or she shall be:

(1) An attorney at law having graduated from a fully accredited school or college of law and having a presently valid license to practice law in the Courts of the State of Tennessee, as issued by the Supreme Court of Tennessee.

(2) A person of good moral character, who has not been convicted of a felony under the laws of the State of Tennessee or of any other State of the United States.

(3) A resident of White County, Tennessee, with law offices located in White County, Tennessee; provided, however, that a non-resident of White County may be elected and serve as city judge in the event that no otherwise qualified person who is a resident of White County, Tennessee is available and will so serve.

(4) At least thirty (30) years of age at the time of election.

(5) A person who is not serving as an elected, appointed official or employee of the City of Sparta, Tennessee. (1978 Code, § 1-2A03)

**3-203. Term of office.** The city judge shall be appointed by the Board of Mayor and Aldermen of the City of Sparta to serve at the pleasure of that body, upon the recommendation of the Mayor of the City of Sparta. His or her initial term shall be to August 1, 1987. The mayor shall recommend and the board of mayor and aldermen appoint a city judge at the first meeting of July, 1987 and each odd-numbered year thereafter, to commence serving on August 1st of such year. There shall be no limit upon the number of terms which an individual may serve as city judge. (1978 Code, § 1-2A04)

**3-204. Vacancy in office.** The Board of Mayor and Aldermen of the City of Sparta shall, upon recommendation of the mayor, have the power and authority to fill any vacancy in the office of city judge having been created by the death, resignation, or removal of the previous city judge. The successor so selected shall serve the remainder of the term of his or her predecessor. (1978 Code, § 1-2A05)

**3-205. Oath of office.** The city judge after appointment shall, prior to entering upon the duties of the office, have administered to him by the Mayor of the City of Sparta the following oath:

"I, \_\_\_\_\_, having been duly sworn, do hereby make oath or affirm, that I possess all of the qualifications necessary to serve as City Judge of Sparta, Tennessee, and that I shall, to the best of my ability, serve the citizens of Sparta, Tennessee as City Judge for the term of office to which I have been appointed.

I do further make oath or affirm that I will, to the best of my ability, adhere to and enforce the laws, ordinances, rules and regulations of the City of Sparta, Tennessee, the State of Tennessee, and the United States of America, insofar as the same are applicable to my tenure and jurisdiction as City Judge." (1978 Code, § 1-2A06)

**3-206. Bond.** The city judge shall be bonded in the amount of \$10,000 to secure and make certain the faithful performance of the duties and responsibilities of the office to which he or she is appointed. The bond of the city judge shall be paid by and be a lawful expense of the City of Sparta. (1978 Code, § 1-2A07)

**3-207. Compensation.** The compensation of the city judge shall be fixed by the board of mayor and aldermen by resolution for terms concurrent with the judge's term of office. During a judge's term of office, the board shall not reduce the judge's compensation except in connection with a general wage/salary reduction applicable to all city employees, and then only in an amount not exceeding by proportion the percentage reduction applied to all city employees.

Any portion of the compensation package for the city judge, including any retirement benefit, fixed by the board of mayor and aldermen, may be waived by the city judge. The occupant of the office of city judge shall give written notice to the city administrator of the intent to waive any portion of the compensation package fixed by the board of mayor and aldermen. The city judge shall execute the waiver, and upon its execution, the city judge shall not in the future be entitled to any compensation waived. (1978 Code, § 1-2A08)

**3-208. Temporary absence or disability.** (1) The city judge may, upon his temporary absence causing a temporary inability to perform his duties, appoint an interim city judge possessing the minimum qualifications set forth in § 3-202 hereinabove. Such interim city judge shall serve without compensation in the absence of any agreement to provide that the incumbent city judge forego some portion of his compensation in order to allow same.

(2) Upon the temporary disability of the city judge, for a period of more than thirty (30) days, the board of mayor and aldermen shall select an interim city judge to serve for the period of disability, and to receive the compensation of the city judge during said period. (1978 Code, § 1-2A09)

**3-209. Removal from office.** The city judge may be removed, either temporarily or permanently, for cause, upon the affirmative vote of five (5) members of the board of mayor and aldermen. For purposes of this section, cause shall be:

(1) Failure to meet the minimum qualifications set forth in § 3-202 hereinabove.

(2) Notoriously disgraceful personal conduct unbecoming a judicial officer.

(3) Failure to meet prescribed standards pertaining to the holding of court and the performance of such other duties as are specifically covered by the office.

(4) Mental or physical incapacity or disability. Such may be temporary or permanent, and removal of the city judge based hereupon may be either temporary or permanent as the situation warrants. The city judge may not be removed without his consent based upon his physical or mental incapacity unless the board of mayor and aldermen obtains an opinion, from a treating or consulting physician, psychiatrist or psychologist attesting to the incapacity. The city judge shall be subject to request for medical examination in the same manner as other city employees. (1978 Code, § 1-2A10)

**3-210. Jurisdiction.** The city judge shall have jurisdiction over all misdemeanors of the State of Tennessee and over all violations of ordinances, rules, and regulations of the City of Sparta, Tennessee, which occur within the corporate limits of the City of Sparta, Tennessee. His or her jurisdiction shall be concurrent with the jurisdiction of the White County General Sessions Court

Judge; provided, however, that he or she shall not have jurisdiction over the following:

- (1) Matters of probate law.
- (2) Matters of domestic relations law.
- (3) Matters of juvenile law, except as may be appropriate where juveniles may be punishable for traffic offenses and the like.
- (4) Initial appearances, bond hearings, or preliminary hearings in felony cases.

Nothing herein shall be so construed as to require that the city judge assert jurisdiction over the various misdemeanors of the State of Tennessee, although such jurisdiction is granted. The city judge shall have the discretion to limit his or her own jurisdictional authority in the event that he or she deems certain classes of misdemeanor offenses to be the more appropriate province of other courts of this county or state. (1978 Code, § 1-2A14)

**3-211. Contempt powers.** The city judge shall have all of the powers of contempt available to a Judge of the General Sessions Court, including the power to levy jail sentences if necessary in appropriate cases. (1978 Code, § 1-2A15)

## CHAPTER 3

### COURT ADMINISTRATION

#### SECTION

3-301. Disturbance of proceedings.

3-302. Trial and disposition of cases.

**3-301. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1978 Code, § 1-2A22)

**3-302. Trial and disposition of cases.** Every person charged with committing a misdemeanor or violating a municipal ordinance shall be entitled to trial and disposition of his or her case within a reasonable time; the city judge shall, however, have the discretionary power and authority to grant continuances to either party for a reasonable period of time upon good cause shown, in his discretion. (1978 Code, § 1-2A18)

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

**3-401. Appearance bonds authorized.** When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of the case, be allowed to post an appearance bond with the city judge or city court clerk, or in their absence with the ranking police officer on duty at the time, provided that such alleged offender is not drunk or otherwise in need of protective custody. (1978 Code, § 1-2A19)

**3-402. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him or her may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1978 Code, § 1-2A20)

**3-403. Bond amounts, conditions, and forms.** An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00), or the combined amount of fine and costs levied by the city court, whichever is greater, and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within White County, Tennessee. No other type bond shall be acceptable. (1978 Code, § 1-2A21)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

## CHAPTER 5

### CITATIONS, WARRANTS, AND SUMMONSES

#### SECTION

3-501. Citations in lieu of arrest in non-traffic cases.

3-502. Summonses in lieu of arrest.

**3-501. Citations in lieu of arrest in non-traffic cases.** Pursuant to Tennessee Code Annotated, § 7-68-101, et seq., the board of mayor and aldermen appoints the chief and all paid firefighters in the fire department and the codes enforcement officer to be special police officers having the authority to issue citations in lieu of arrest. The chief and firefighters in the fire department shall have the authority to issue citations in lieu of arrest for violations of the provisions of title 7 and of the municipal code of ordinances which includes the fire code adopted in chapter 2 of title 7; for violations of the provisions of title 13, chapter 1, paragraphs 113 through 116; and for violation of title 17, chapter 1, paragraph 121 of the municipal code. The codes enforcement officer shall have the authority to issue citations in lieu of arrest for violations of the provisions of title 12 including the various codes as specified in chapter 1, paragraph 12-102 of title 12, the property and maintenance provisions of title 13, and the zoning provisions of title 14 of this municipal code of ordinances.

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

It shall be unlawful for any person to violate his agreement to appear in court regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (as added by Ord. #03-766, June 2003)

**3-502. Summonses in lieu of arrest.** Pursuant to Tennessee Code Annotated, § 7-63-201 et seq., which authorizes the board of mayor and aldermen to designate certain city enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the superintendent in the street and sanitation

department and the animal control officer to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citation in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give summons to the offender.

The ordinance summons shall contain the names and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offence occurred may:

- (1) Have a summons issued by the clerk of the city court or
- (2) May seek the assistance of a police officer to witness the violation.

The police officer that witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person as provided in § 3-501 above.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (as added by Ord. #03-766, June 2003)



## **TITLE 4**

### **MUNICIPAL PERSONNEL**

#### **CHAPTER**

1. SOCIAL SECURITY.
2. PERSONNEL POLICY.
3. MISCELLANEOUS REGULATIONS -- CITY PERSONNEL.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. INFECTIOUS DISEASE CONTROL POLICY.
6. TRAVEL REIMBURSEMENT REGULATIONS.
7. DRUG AND ALCOHOL TESTING POLICY.

#### **CHAPTER 1**

### **SOCIAL SECURITY**

#### **SECTION**

- 4-101. Policy declared.
- 4-102. Agreements authorized.
- 4-103. Withholdings.
- 4-104. Employer's contributions.
- 4-105. Records, reports.
- 4-106. Employees excluded.
- 4-107. Coverage for housing authority employees.

**4-101. Policy declared.** It is hereby declared to be the policy and purpose of municipality 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 municipality shall take such action as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-601)

**4-102. Agreements authorized.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1978 Code, § 1-602)

**4-103. Withholdings.** 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. (1978 Code, § 1-603)

**4-104. Employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1978 Code, § 1-604)

**4-105. Records, reports.** The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-605)

**4-106. Employees excluded.** 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 municipality.

There is hereby excluded from this chapter any authority to make any agreement with respect to employees rendering services in fee basis positions, or any elective legislative, executive or judicial official or any regulations. Acting under § 4-101 hereinabove contained, the mayor is hereby directed to amend the social security agreement with the state so as to extend the benefits of the system of federal old age and survivors' insurance to include employees rendering services in fee basis positions and elective legislative, executive and judicial officials as of January 1, 1956. (1978 Code, § 1-606)

**4-107. Coverage for housing authority employees.** The housing authority is hereby authorized and instructed to withhold from salary and wage payments of its employees and to contribute on their behalf funds for application on federal old age and survivors' insurance accounts for such employees. Said, authority shall report on and make such payments or contributions directly to the appropriate state agency. (1978 Code, § 1-607)

## CHAPTER 2

### **PERSONNEL POLICY**<sup>1</sup>

#### **SECTION**

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**4-201. Policy declared.** It is hereby the declared personnel policy of the city that:

(1) Employment in the city government shall be based on merit and fitness, free of personal and political considerations.

(2) Just and equitable incentives and conditions of employment shall, be established and maintained to promote efficiency and economy in the operation of the city government.

(3) Positions having similar duties and responsibilities shall be classified and compensated on a uniform basis.

(4) Appointments, promotions and other actions requiring the application of merit principles shall be based on evaluations of past employment and recommendations of superiors.

(5) Every consideration shall be given of the rights and interests of employees consistent with the best interests of the public and the city.

(6) Tenure of employees covered by this chapter shall be subject to good behavior, the satisfactory, performance of work, necessity for the performance or work, and the availability of funds.

(7) High morale shall be promoted by the fair administration of this chapter.

(8) Every employee has a moral obligation and is expected to comply with the spirit and intent of this merit system. (1978 Code, § 1-801)

**4-202. Pay policy; guidelines for establishing salaries.** In order to assure the recruitment and retention of personnel necessary to maintain a continued high level of public service, it is the policy of the city that the level of compensation of municipal employees should favorably compare with prevailing rates in private industry and other governmental agencies in the competitive area. In carrying out this policy, consideration shall be given to the duties and responsibilities of the various types of positions, rates paid for comparable services in public and private employment, experience in recruiting for such positions, and availability of funds. (1978 Code, § 1-802)

**4-203. Hours of work and overtime; normal work-week.** The number of hours an employee is required to be on duty each day, week or month shall, as far as practicable, be uniform for all regular employees in the same class. The normal work-week for full time regular employees in different groups shall be a total of forty (40) hours per week. (1978 Code, § 1-803)

**4-204. Recruiting of employees.** Individuals shall be recruited from a geographic area as wide as is necessary to assure obtaining well-qualified

candidates for the various types of positions. Employment, therefore, shall not necessarily be limited to residents of Sparta. However, in cases where residents and non-residents are equally qualified for particular vacant positions, the residents shall receive first consideration in filling such vacancies. (1978 Code, § 1-804)

**4-205. Department heads required to live within city limits.**<sup>1</sup>

Department heads are required to live within the corporate limits of the City of Sparta. For the purpose of meeting the requirements of this paragraph, department head is defined to include the following positions:

Police Chief  
Fire Chief  
Street/Sanitation Superintendent  
Electric Superintendent  
Water/Sewer Superintendent

If, at the time of recruitment, the most qualified applicant for a department head position resides outside the city limits of Sparta, the board of mayor and aldermen may approve a reasonable period of time within which the applicant will comply with the provisions of this paragraph. (1978 Code, § 1-804(a))

**4-206. Recruiting notices and publicity.** The mayor or city recorder shall prepare recruiting notices publicizing the endeavors to secure applicants and provide candidates for positions. Such various media of publicity shall be used as might be expected to bring notice of recruitment to as many qualified persons as possible. In publicizing particular recruitment needs, advertising shall be limited to the media available in Sparta for a reasonable period of time. If such advertising fails to produce a sufficient number of well-qualified applicants, the mayor or city recorder may utilize appropriate media beyond Sparta. (1978 Code, § 1-805)

**4-207. Applications.** Applications for employment shall be accepted at any time. Each candidate for municipal employment shall make application on the standard form prescribed and provided by the city board. Such information may be required as is deemed necessary in order to judge the applicant's fitness for services in the city. Applications shall not be returned but will remain on file in the city for two (2) years, after which they may be destroyed, if the applicant has not indicated a continued interest within the last year. (1978 Code, § 1-806)

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<sup>1</sup>Section II of Ord. #95-680 provides:

"This ordinance shall become effective upon its final passage provided however, that the requirements of the ordinance shall be prospective only and shall not be applicable to department heads who are employees of the City of Sparta at the time of final passage of this ordinance."

**4-208. Reference checks.** As part of the pre-employment procedure, former supervisors, employers (for a reasonable past period) and references provided by candidates on the standard application form shall be checked as a precaution against obtaining undesirable employees. Reference checks made by personal or telephone contact shall be documented and made a part of the applicant's file. These reference checks shall be completed prior to an offer of employment and the information be made a part of the application file. All such information is to be handled as privileged information. (1978 Code, § 1-807)

**4-209. Examinations.** All applicants for positions in the classified service may be subject to competitive examination. Any written or oral examination shall pertain to those matters which test fairly the capacity of the candidate to discharge efficiently the duties of the class for which the examination is held. Written and oral examinations may take into consideration such factors as education, experience, aptitude, knowledge, character, or other qualifications which enter into the determination of the relative fitness of applicants. Any applicant who needs a reasonable accommodation in order to take any such oral or written examination should notify the testing office immediately. All applicants who receive a conditional offer of employment may be required to undergo a physical examination prior to beginning their employment with the city. (1978 Code, § 1-808, modified)

**4-210. Removal from consideration.** The board of mayor and aldermen, by notification to the applicant, may remove from further consideration the application of an applicant who:

- (1) Does not possess the minimum qualifications required for any acceptable position;
- (2) Has established an unsatisfactory employment or personal record, as evidenced by reference checks of such a nature as to demonstrate unsuitability for employment;
- (3) Has made false statement of any material fact or practiced deception in his application;
- (4) Is afflicted with a mental or physical disability that prevents the applicant from performing the essential functions of the position, with or without reasonable accommodation;
- (5) Is believed to be a current user of drugs or alcohol;
- (6) Has been convicted of crimes other than minor traffic violations;
- (7) Does not reply to a mail inquiry within ten (10) days or does not return a telephone inquiry within two (2) days;
- (8) Fails to accept appointment within two (2) days or to report for duty within a reasonable time prescribed in the offer. (1978 Code, § 1-809, modified)

**4-211. Discrimination.** There shall be no discrimination against or in favor of a candidate or an employee because of race, color, religion, sex, national origin, age, or disability. Standards with respect to educational requirements shall be used only where essential to the performance of the duties of the position. All candidates for a position shall be evaluated against the same qualification requirements. (1978 Code, § 1-810)

**4-212. No harassment policy.** The City of Sparta does not and will not tolerate illegal harassment of its employees. Any form of harassment related to an individual's race, color, sex, religion, national origin, age, or disability is a violation of this policy and will be treated as a disciplinary matter. The term "harassment" includes, but is not limited to, slurs, jokes and other verbal, graphic, or physical conduct relating to an individual's race, color, sex, religion, national origin, age or disability. "Harassment" also includes sexual advances, requests for sexual favors, unwelcome or offensive touching, and other verbal, graphic or physical conduct of a sexual nature. If you have any questions about what constitutes harassing behavior, please contact the city administrator.

Any employee who has a complaint of harassment at work by anyone, including supervisors, co-workers, or visitors must bring the problem to the attention of responsible city officials. Employees may bring their complaints to the city administrator or any member of the board of alderman [or any other appropriate official]. All complaints will be promptly investigated as confidentially as possible, and, where appropriate, disciplinary action, up to and including discharge, will be taken. No employee will be penalized in any way for truthfully reporting a harassment problem. Do not assume that the city is aware of your problem.

Violation of this policy will subject an employee to disciplinary action, up to and including immediate discharge.

**4-213. Citizenship.** To be eligible for employment in any position with the municipal service, each candidate must be a citizen of the United States; provided, however, the board may waive this requirement if in their opinion the city will benefit in more efficient administration of its affairs by such waiver. (1978 Code, § 1-811)

**4-214. Method of requesting employees.** Whenever a vacancy in any position in the classified service is to be filled, the department head shall submit a requisition containing the class title of the position; the number of positions to be filled; the location and hours of work; any special qualification requirements for the position; any recommendation as to whether the position should be filled by promotion, transfer, demotion or appointment; and other pertinent information required. (1978 Code, § 1-812)



**4-215. File of candidates, applicants, employees.** The city recorder shall maintain a file of candidates, applicants, and employees, who have qualified for the various classes and/or positions in the classified service. Subject to completion of all examination requirements, candidates are eligible for inclusion and consideration at any time. (1978 Code, § 1-813)

**4-216. Rating of applicants.** Applicants will be rated by the department head and the mayor or his designee, when an appropriate vacancy occurs, in light of the qualifications for the particular position as follows:

- (1) Group A-outstandingly qualified;
- (2) Group B-well qualified. Usually has significant experience or training appropriate for the position;
- (3) Group C-meets the minimum essential requirements for the position.

Applicants may frequently be rated in group A, B, or C based on training and experience reflected in the application, information furnished by reference checks, and test results. If during the screening process for filling a position, additional information is obtained which reflects significantly on an applicant's suitability for the position, his rating may be changed to a higher or lower group.

Employees shall be evaluated only as to whether they do, or do not, meet the minimum requirements for the position. (1978 Code, § 1-814)

**4-217. Order of certification.** Employee candidates qualified for promotion to a vacant position shall be certified as available candidates.

If action under § 4-219 does not provide an adequate number of well-qualified candidates for selection, applicant candidates may also be certified from the open competitive groups along with employee candidates to obtain a sufficient number to permit selection of a well-qualified candidate. Employee candidates, and applicant candidates rated in group A, shall be certified for selection first. If there are none in group A, employee candidates, and applicant candidates in group B, shall be certified. Similarly, if there are none in group A or group B, employee candidates, and applicant candidates in group C, may be certified.

Candidates shall be certified and selections made in accordance with § 4-219 and § 4-220 except in the following case:

When an eligible candidate has indicated that he would not accept appointment to a position because of hours of work, location of work, or the particular office. (1978 Code, § 1-815, modified)

**4-218. Appointments.** All vacancies in the classified service shall be filled by regular appointment, temporary appointment, promotion, transfer or demotion. Appointment to a vacancy in the classified service shall be recommended by the department head from the candidates certified and submitted to the board for approval. (1978 Code, § 1-816)

**4-219. Regular appointment.** Regular appointment indicates that the employee is to work for the city on a continuing basis. Every regular employee shall serve a probationary period after original appointment. The probationary period shall extend for three (3) months for police classes and six (6) months for all other classes. The probationary period shall be regarded as an integral part of the evaluation process and shall be utilized for closely observing the employee's work, for obtaining the most effective adjustment of a new employee in his position, and for separating any new employee whose performance does not meet the required standards. The status of the appointment shall not be changed from probationary to regular until a certification is made by the department head that the employee's services are satisfactory. (1978 Code, § 1-817)

**4-220. Temporary appointment.** Temporary appointment indicates that the employee is to work for the city for a period of less than six (6) consecutive months. When an employee has service of six (6) consecutive months in a temporary appointment, a personnel action shall be submitted changing his status to regular or separating him from the service. A regular employee shall not have his status changed to temporary when there is no break in service.

Temporary employees shall receive compensatory leave in accordance with these rules, but shall not receive annual or other types of leave during their temporary appointment. When the appointment of an employee is changed from temporary to regular, crediting of annual leave and sick leave becomes retroactive to the date of the original appointment, provided there has been no break in service as defined in this chapter.

The pay of temporary employees shall be computed on an hourly basis and no pay shall be given for time not worked except as provided in the above paragraph.

Temporary employees may be separated at any time within the six (6) months appointment when their services are no longer required. The separation is not subject to the rules under §§ 4-225 to 4-232. (1978 Code, § 1-818)

**4-221. Regular part-time employment classification.** A regular part-time employee is defined as an employee who works part-time hours on a regular basis.

Regular part-time employees are eligible for vacation benefits as all other employees except on a prorated basis. The number of prorated days due an employee will be based on the average number of hours worked per week during the previous twelve months beginning from the employee's date of hire.

Every regular part-time employee shall serve a probationary period after original appointment. The probationary period shall extend for three (3) months. The probationary period shall be regarded as an integral part of the evaluation process and shall be utilized for closely observing the employee's work and for obtaining the most effective adjustment of a new employee whose

performance does not meet the required standards. The status of the appointment shall not be changed from probationary to regular until a certification is made by the department head that the employee's services are satisfactory. (1978 Code, § 1-819)

**4-222. Promotion policy.** Qualified employees shall be considered for promotion to fill any vacant position in the classified service before outside applicants are considered.

The city encourages employees to develop skills, attain greater knowledge of their work and make known their qualifications for promotion to more responsible and difficult positions.

No supervisor shall deny an employee permission to apply for a promotion opportunity in any city office or department.

When the board determines that intensive efforts have produced an insufficient number of well-qualified employees within the classified service, he may consider outside applicants along with employees in order to provide an adequate number of candidates for consideration. (1978 Code, § 1-820)

**4-223. Transfer.** Transfer of an employee from one position to another without change in grade may be effected when:

- (1) The employee meets the qualification requirements;
- (2) It is in the best interests of the city;
- (3) Further training and development of an employee in another position would be beneficial to future staffing potential of the city.
- (4) It meets a personal need of the employee and is consistent with (1) and (2) above. (1978 Code, § 1-821)

**4-224. Demotion.** An employee may be demoted to a position of a lower grade, and for which he is qualified, for any of the following reasons:

- (1) When an employee would otherwise be laid off because his position is being abolished, his position is reclassified to a lower grade; lack of work; lack of funds; or because of the return to work from authorized leave or another employee to such position in accordance with the rules on leave.
- (2) When an employee does not possess the necessary qualifications to render satisfactory service in the position he holds, or when removed during probation.
- (3) When an employee voluntarily requests such demotion.
- (4) For reason including but not limited to misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, arrest or indictment for criminal offenses, violation of any of the provisions of the charter, ordinances, or these rules. (1978 Code, § 1-822, modified)

**4-225. Separation from classified service positions.** All separations of employees from positions in the classified service shall be designated as one of the following types and accomplished in the manner indicated:

- (1) Resignation;
- (2) Lay-off;
- (3) Dismissal;
- (4) Removal;
- (5) Disability;
- (6) Death;
- (7) Retirement. (1978 Code, § 1-823)

**4-226. Return of city property; compensation; deductions.** At the time of separation and prior to final payment all records, assets, or other items of city property in the employee's custody shall be transferred to the city recorder and a certification to this effect shall be executed by the departing employee. Any amount due because of a shortage in the above shall be withheld from the employee's final compensation or collected through other appropriate action.

Employees who separate shall receive payment for all earned salary, all compensatory time due and earned, annual and personal leave subject to deduction for:

- (1) Any indebtedness pursuant to the first paragraph in this section.
- (2) Sick leave advanced prior to accrual unless the separation is for disability. (1978 Code, § 1-824, modified)

**4-227. Resignation.** Any employee may resign by submitting in writing the reasons therefor and the effective date to the city recorder as far in advance as possible, but a minimum of two (2) weeks is desired.

Failure to comply with the requirements in this section may be cause for denying future employment with the city. (1978 Code, § 1-825)

**4-228. Lay-off.** When a position must be discontinued or abolished because of a change in duties, reorganization, lack of work, or lack of funds, the department head shall submit a report to the mayor together with a recommendation as to the employee to be laid off.

The mayor shall determine the order of lay-off of employees on the basis of the relative suitability for the jobs that remain and length of continuous service with the city, except that no regular employee shall be separated while there is a temporary or probationary employee in any class performing duties for which the regular employee is at least equally qualified, and applies.

Regular employees subject to lay-off shall be notified in writing two (2) calendar weeks prior to the effective date, whenever possible.

Employees who are laid off shall, upon request, be placed on the open examination list for any class for which qualified. (1978 Code, § 1-826)

**4-229. Probationary period.** The probationary, or working test period, is an integral part of the examination process and shall be utilized for the following:

Closely observing the employee's work.

Securing the most effective adjustment of a new or promoted employee to a position.

Rejecting any employee whose performance does not meet work standards.

The probationary period for all regular appointments shall be for a period of 12 months for law enforcement employees and 6 months for all other employees. If it is determined to be necessary to observe and evaluate an employee for a period of time longer than the minimum probationary period specified by this paragraph in order to be able to determine if the probationary employee should be recommended for permanent employment, the department head in charge of the employee may request an extension of the probationary period with the prior approval of the city administrator and/or utilities manager. In no event may a probationary period be extended beyond 18 months from the employee's date of hire.

During the probationary period the city administrator and/or utilities manager shall require the department head to report the observations of the employee's work and their judgment of the employee's willingness and ability to perform the duties assigned. During the probationary period the supervisor will inform the employee when his/her performance is unsatisfactory.

A performance evaluation shall be completed and submitted to the city administrator and/or utilities manager at least ten (10) days prior to the expiration of an employee's probationary period. At this time, the department head shall notify the city administrator and/or utilities manager if the service of the employee has been satisfactory and whether the employee is recommended for continued employment. (1978 Code, § 1-827)

**4-230. Disability and physical examinations.** (1) An employee may be separated for disability when he or she cannot perform the essential functions of the job, with or without reasonable accommodations.

(2) The city may require that any employee submit to a physical examination at the city's expense and performed by a physician of its choice.

(3) All employees of the police and fire departments, and all truck drivers and heavy equipment operators shall be required to submit to a physical examination at the city's expense and performed by a physician of its choice at least once each year, for the purpose of determination of physical ability to perform the duties required. (1978 Code, § 1-828, modified)

**4-231. Death.** Separation shall be effective as of the date of death.

All compensation due in accordance with the second paragraph of § 4-225 shall be paid to the estate of the employee, except for such sums as by law may be paid to the surviving spouse.

Employees shall be separated at the close of the weekly pay period in which they meet the age and/or time restrictions in § 4-257. (1978 Code, § 1-829)

**4-232. Definitions.** (1) "City administrator." The employee assigned authority to administer the provisions of this chapter.

(2) "Employee." For purposes of interpreting the provisions of this chapter, employee shall be defined as all employees with the exception of the administrator, utilities manager, and department heads. (1978 Code, § 1-830, as replaced by Ord. #06-817, Nov. 2006)

**4-233. Disciplinary action.** Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary action are:

Oral reprimand.

Written reprimand.

Suspension.

Dismissal. (1978 Code, § 1-830.1)

**4-234. Oral reprimand.** Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary actions. (1978 Code, § 1-830.2)

**4-235. Written reprimand.** In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee, and a copy shall be placed in the employee's personnel record at city hall. (1978 Code, § 1-830.3)

**4-236. Suspension.** An employee may be suspended with or without pay by the department head with the approval of the city administrator and/or utilities manager, for a period not to exceed a total of 30 days in any 12 month period. (1978 Code, § 1-830.4)

**4-237. Suspension without pay.** Suspensions without pay required a formal hearing with the city administrator and/or utilities manager and, if applicable, the department head, prior to the suspension to allow the employee the opportunity to hear the charges against him/her, and to present his/her side. A written statement of the reason for suspension shall be submitted to the employee affected at least 24 hours prior to the time the suspension becomes effective.

An employee determined to be innocent of the charges shall be returned to duty with full pay for the period of suspension. (1978 Code, § 1-830.4(a))

**4-238. Suspension with pay without prior notice.** A suspension with pay may be without prior notice if the suspension is for causes related to personal conduct and is necessary in order to avoid undue disruption of work, protect the safety of persons or property, or for other serious reasons. In the case of suspensions with pay for a period greater than 3 days, the employee shall have the right to request a hearing with the city administrator and/or utilities manager provided that a request for a hearing is made within 10 days from the time the notice of suspension is given. In cases of a suspension with pay but without prior notice, a written statement of the reasons for the suspension shall be prepared with one copy sent by certified mail to the employee and one copy filed in the employee's personnel file.

If the results of the investigation or hearing determine the employee to be innocent of the charges, the employee shall be returned to regular employment status and a memorandum of the findings placed in their personnel file.

If the results of the investigation or hearing determine the employee to be guilty of the charges, the city administrator and/or utilities manager shall determine the appropriate disciplinary action based on the severity of the acts. (1978 Code, § 1-830.4(b), as amended by Ord. #96-686, March 1996)

**4-239. Dismissal.** The city administrator and/or utilities manager may dismiss an employee for just cause. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, arrest or indictment for criminal

offenses, violation of any of the provisions of the charter, ordinances, or these rules.

The employee shall be provided a hearing with the city administrator and/or utilities manager at the time of notice of dismissal at which time the employee shall be given a written notice of the nature of the proposed action, the reasons therefore, the evidence supporting such action and the right to appeal the charges per the appeals process outlined in § 4-240.

If the employee does not request an appeal within ten (10) days after receiving notification of dismissal, the proposed action shall be effective on the date specified with no need for further action.

If the employee requests a hearing on the proposed action, the city administrator and/or utilities manager shall promptly set a date and time for the hearing pursuant to the appeals process as outlined in § 4-240.

An employee who has been notified of dismissal and who requests an appeal hearing may be retained on duty status, or suspended with pay at the discretion of the city administrator and/or utilities manager. (1978 Code, § 1-830.5, as amended by Ord. #96-686, March 1996)

**4-240. Appeals process.** Two levels of administrative review are provided. The first level review shall be by the disciplinary appeals committee which shall include the following members: mayor, city administrator, utilities managers, two (2) aldermen. The two members from the board of aldermen shall be appointed by the mayor and shall serve on the disciplinary appeals committee for the period of their term of office.

Any city employee reprimanded, suspended, or dismissed may, by submitting the proper form to the city administrator and/or utilities manager, request to have the action reviewed by the disciplinary appeals committee of the board of mayor and aldermen. An employee must submit the request for an appeal within 10 calendar days of receipt of notification of the disciplinary action and must also state his/her intent to have representation and name the representatives. The city administrator and/or utilities manager shall schedule a hearing with the disciplinary appeals committee within 10 days of the receipt of the employee's request for appeal. In making its decision and recommendations, the disciplinary appeals committee shall consider evidence presented by supervisory personnel involved in the case as well as testimony and supporting evidence that may be presented by the employee.

The city administrator and/or utilities manager shall make a written report of the disciplinary appeals committee's findings to the department head. The report will include conclusions of the disciplinary appeals committee and instructions as to the disposition of the appeal. After the report of the disciplinary appeals committee's findings and recommendations have been presented to the department head, any action required shall be taken within 72 hours and the employee notified in writing. The employee shall also be provided



with a written notice of his/her right to final appeal to the board of mayor and aldermen.

If the employee does not request an appeal within ten days after receiving notification of the action of the disciplinary appeals committee, the proposed action shall be effective with no need for further action.

If the employee requests a hearing on the proposed action, the city administrator and/or utilities manager shall promptly schedule the hearing to take place at the next regularly scheduled meeting of the board of mayor and aldermen. The action of the board of mayor and aldermen shall be final and binding on all parties involved unless appealed to chancery court by the employee.

The city administrator and/or utilities manager shall make a written report of the board's actions to the department head which will include a statement of the findings, conclusions, and instructions as to the disposition of the appeal. After the report of the board's findings and recommendations has been presented to the department head, any action required shall be taken within 72 hours and the employee notified in writing. (1978 Code, § 1-830.6)

**4-241. Grievance procedures.** A grievance is defined as an employee's feeling of dissatisfaction; any difference or disagreements or disputes arising between an employee and his supervisor and/or employer with some aspect of his employment, application of interpretation of regulations and policies, or some management decision affecting him. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall and any other related items.

Employee(s) who have a complaint or grievance may discuss the grievance with his/her immediate supervisor, a higher-level supervisor, and/or the department head. Every employee may present a complaint or grievance under the provisions of the grievance procedures free from fear, interference, restraint, discrimination, coercion, or reprisal.

Steps of the grievance procedure are as follows:

- Step 1. The employee makes an oral or written presentation of the complaint or grievance to the immediate supervisor. It shall be the supervisor's responsibility to promptly consider and take action. The supervisor shall inform the employee of the decision and any action taken shall be taken within 72 hours if appropriate and if the supervisor has the authority. The supervisor shall prepare a written report of the complaint or grievance and provide a copy of it to the department head. Any supervisor in the chain of command shall attach his/her recommendation regarding the unresolved complaint or grievance if it proceeds to a higher level.

No supervisor may hold a complaint longer than 72 hours without forwarding it to the next supervisory level.

- Step 2. If the grievance cannot be resolved on an informal basis between the employee and supervisor, the employee may proceed to the second procedural step. Before proceeding an employee must reduce the complaint or grievance to writing and request that the written statement be delivered to the department head. If an employee wishes a hearing, the department head will accommodate the employee. Upon hearing the grievance the department head must provide a written response to the employee and the immediate supervisor within three days of the hearing (72 hours).
- Step 3. If the grievance is not resolved with the department head, the employee may request in writing a hearing with the city administrator and/or utilities manager. The city administrator and/or utilities manager shall have ten (10) calendar days to schedule the hearing after which, the city administrator and/or utilities manager shall provide a written response to the employee with copies to the department head and immediate supervisor. Every attempt will be made to resolve the employee's grievance. (1978 Code, § 1-830.7)

**4-242. Leave.** Leave is any authorized absence during regularly scheduled work hours that is approved by proper authority. Leave may be authorized with or without pay. Absence without leave is considered unauthorized absence.

Leave shall be granted in accordance with these rules on the basis of the work requirements of the departments and, whenever possible, the personal wishes of the employees. The mayor may delegate the authority to approve leave to department heads, who shall not have the power of redelegation. (1978 Code, § 1-831)

**4-243. Types of leave.** The following types of leave, and no other, are officially established:

- (1) Annual leave (see § 4-245).
- (2) Sick leave (see § 4-246).
- (3) Leave for injury in line of duty (see § 4-247).
- (4) Military leave (see § 4-248).
- (5) Leave without pay (see § 4-249).
- (6) Holiday leave (see § 4-250).
- (7) Civil leave (see § 4-251).
- (8) Administrative emergency leave (see § 4-252).

- (9) Leave for death in family (see § 4-254).
- (10) Family and medical leave (see § 4-255). (1978 Code, § 1-832)

**4-244. Maintenance of leave records.** The department heads shall be responsible for the maintenance of accurate leave records. Such records shall be kept on forms prescribed to the board, who may periodically inspect them to insure adherence to the provisions of these rules. (1978 Code, § 1-833)

**4-245. Annual leave.** It is the policy of the city to promote employee efficiency, health, and morale through periodic interruptions from their duties. Accordingly, employees shall accrue and be credited with, and shall exercise annual leave upon the terms and conditions following:

(1) Employees shall accrue and be credited with paid annual leave based upon the length of continuous service from date of employment, as follows:

- (a) From completion of 1 year through completion of 3 years, 1 work week.
- (b) From completion of 3 years through completion of 7 years, 2 work weeks.
- (c) From commencement of the 8th year, 3 work weeks.
- (d) From commencement of the 16th year, 4 work weeks.

(2) Vacation schedules:

(a) Each department head will be responsible for preparation and notice of vacation schedules, and shall arrange the same so as to cause the least disruption of the services of his department. Any employee desiring to take vacation at a time other than as scheduled by the department head shall make application for change of schedule to the department head at least thirty (30) days prior to the time proposed for taking the same and so as not to coincide with scheduled vacations of other employees of the department; provided further, however, that by mutual agreement between employees, and the approval of the department head, employees may swap vacation times.

(b) Request for annual leave by department heads and other administrative and clerical employees shall be submitted to the city administrator a reasonable time in advance of the proposed absence. The city administrator shall approve such requests consistently with the desires of the employee if the same may be so approved without disruption of the work requirements of the city.

(c) The city administrator shall submit to the mayor requests for annual leave a reasonable time in advance of the proposed absence. The mayor shall approve such requests consistently with the desires of the employee if the same may be so approved without disruption of the work requirements of the city.

(3) An employee shall not receive the annual leave credit prescribed in the first paragraph of this section if he was in a non-pay or non-employment status for more than thirty (30) days of any accrual period. An employee whose

appointment status is changed from temporary to regular without a break in service shall receive annual leave credits from the date of employment on temporary status.

(4) One work week of leave must be used as a unit each calendar year by employees entitled to one or two weeks paid annual leave. Employees entitled to three work weeks paid annual leave shall be required to take at least two work weeks of this leave as a unit. The remaining leave to which any employee shall be entitled may be taken in periods of multiples of one working day. The department heads shall be responsible for keeping the leave records of their employees. The city administrator shall be responsible for keeping the leave records of the department heads and administrative and clerical employees. The mayor shall be responsible for keeping the leave records of the city administrator.

(5) Employees must use or lose each accrual of annual leave by the end of the second accrual period following the one in which the leave was earned. Leave credit in excess of this limit shall be forfeited by the employee.

(6) Upon separation, an employee shall be paid for the unused portion of his accrued annual leave, subject to the second paragraph of § 4-226; provided, however, that anyone dismissed under any cause set out in § 4-232(3) shall forfeit all accrued annual leave.

(7) Annual leave shall not be granted when it is known that the employee does not expect to return to duty and separation shall be effected as of the last day worked, except in separation for disability or death. (1978 Code, § 1-834)

**4-246. Leave for sickness.** Sick leave shall be used when an employee is incapacitated by sickness, injury, or pregnancy, for medical, dental, or optical diagnosis or treatment; or as a result of exposure to a contagious disease when the employee's attendance at duty jeopardizes the health of others. No sick leave shall be allowed for minor illnesses lasting not more than three (3) days unless the employee is confined in a hospital at which time sick leave shall start from the first day.

An employee shall complete probation period or a minimum of three months work before being eligible for sick leave.

In cases where the employee is confined to the hospital or to his bed at home, he will be granted two weeks sick leave with pay provided he obtains a doctor's certificate certifying his confinement.

All employees who have completed their probationary period shall be credited with sick leave of one work day per month and such sick leave may accrue up to sixty (60) work days total of sick leave credited to the employee subject to the conditions set out in § 4-247; provided, however, that if an employee has actually accrued, at the rate of one work day per month, more than sixty (60) work days total of sick leave, and is stricken and rendered disabled, the board of mayor and aldermen in its discretion may approve the

extension of additional sick leave to the employee up to the amount of actual accrued leave.

Sick leave with pay may be granted to regular employees in accordance with the following provisions:

(1) Sick leave shall not normally exceed the total amount credited to an employee at the time of his absence.

(2) After sick leave credits have been used, absences due to illness may be charged to annual leave, personal leave, or leave without pay subject to minimum amounts chargeable under § 4-245.

Sick leave shall not be debited for absence on observed holidays or other non-work days.

Sick leave credits shall not be paid to an employee upon separation. However, a regular employee who is laid off or resigns for maternity reasons and returns to city employment within one (1) year from the date of separation shall have his former unused sick leave credits restored.

Reporting and investigating sickness together with other miscellaneous factors relative to sick leave shall be handled as follows:

(1) Reporting of sickness. Employees, except police and fire employees, who are absent from duty for reasons which entitle them to sick leave shall ensure that their respective supervisors are notified within two (2) hours after their usual reporting time, if physically able to do so. Upon return to work the employee shall immediately submit to his supervisor an authorization for leave form. Police and fire employees shall notify their respective supervisors before their scheduled duty.

(2) Medical certificate. A medical certificate may be required for any absence chargeable to sick leave; such statement shall normally be required for sick leave in excess of two (2) work-days.

(3) False or fraudulent use of sick leave. The city may investigate any absence for which sick leave is requested. False or fraudulent use of sick leave shall be cause for dismissal or appropriate disciplinary action against the offending employee. (1978 Code, § 1-835)

**4-247. Leave for injury in line of duty.** Leave with pay, for a period not to exceed twelve (12) months, may be granted to any employee who incurs a disabling injury while performing the duties of his or her position, subject to the following procedure, terms and conditions:

(1) A written application for leave under this provision shall be made by the employee, and shall contain a statement by the employee, confirmed by his supervisor, setting forth the details of the accident, and shall be accompanied by a statement from a licensed physician setting forth the nature and extent of the injury and probable period of disability. The employee shall, if granted leave hereunder, provide the city administrator an updated medical report no less often than once per month during the period of disability.

(2) The board of mayor and aldermen shall either approve or disapprove the application, after having considered it and conducted any further proceedings it deems necessary to a proper determination.

(3) The board of mayor and aldermen reserves the right to request at any time that the employee undergo one or more medical examinations by a physician or physicians competent in the diagnosis and/or treatment of the type injury claimed by the employee, at the expense of the city. Refusal of the employee to submit to examination shall be cause for immediate termination of paid leave under these provisions.

(4) An injury in the line of duty shall be defined as an injury occurring within the scope of an employee's employment as defined by the law of worker's compensation of the State of Tennessee, and for which worker's compensation in accordance with said statutes is payable.

(5) If an application is approved, the employee shall be paid from the date of injury without interruption, with a reduction in salary made by the amount received by the employee for temporary total disability from worker's compensation insurance.

(6) Other leave benefits shall not accrue during the period of total disability for which payment is being made hereunder. (1978 Code, § 1-836)

**4-248. Military leave.** Military duty means:

(1) Training and service performed by an inductee, enlistee or reservist, or any entrant into a temporary component of the armed forces of the United States; and

(2) Time spent in reporting for and returning from such training and service, or if a rejection occurs, from the place of reporting therefor. It also includes active duty training as a reservist in the armed forces of the United States or as a member of the National Guard of the United States where the call is for training only.

Any regular employee who has completed his probationary period and who leaves the city service for military duty shall be placed on military leave without pay, such leave to extend through a date ninety (90) days after his release, or hospitalization, continuing after release for not more than one (1) year.

Also a regular employee who has completed his probationary period shall be granted a leave of absence for the purpose of being inducted or otherwise entering military duty. If not accepted for such duty, the employee shall be reinstated in his position without loss of seniority or status, or reduction in his rate of pay. During such period the employee shall for all purposes be considered to have rendered service and to have been compensated therefor at his regular rate of pay.

Such employee shall be entitled to restoration provided he makes application within ninety (90) days after the date of his release from duty under

conditions other than dishonorable, and is physically and mentally capable of performing the duties of the position involved.

A returning employee shall normally be restored to the position which he vacated upon entering the military service. In the event that the vacated position no longer exists at the time he qualifies for return to work, such person shall be entitled to be re-employed in another existing position of the same class specification, provided such re-employment does not necessitate the laying off of another person with greater seniority.

A regular employee who leaves the service directly for such military leave without pay may elect to be paid for any accrued annual, personal or compensatory leave as he may be entitled to if he were actually separating from the city service. His decision shall be noted on the personnel action form effecting the leave. If the employee elects not to be paid for such leave, the accrued leave credits shall be reinstated upon return of the employee.

Employees restored to duty under these provisions shall have unused sick leave credits restored for their use.

According to the provisions of Tennessee Code Annotated, § 8-33-109, all employees who are, or may become, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave or vacation, impairment of efficiency rating, or any other rights or benefits to which otherwise entitled, for all periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders; provided, that an employee while on such leave shall be paid salary or compensation for a period, or periods, not exceeding fifteen (15) working days in any one (1) calendar year, plus such additional days as may result from any call to active state duty pursuant to Tennessee Code Annotated, § 58-1-106. The military leave herein provided shall be unaffected by date of employment or length of service and shall have no effect on other leaves provided by law, regulation, policy or practice. (1978 Code, § 1-837, as amended by Ord. #00-732, Oct. 2000)

**4-249. Leave without pay.** The mayor may grant a regular employee leave without pay for a period not to exceed one (1) year, subject to the following conditions:

(1) Leave without pay may be granted only when it is in the interests of the city to do so. The needs of the employee shall be considered when he has shown by his record to be of more than average value to the city and when it is desirable to return the employee even at some sacrifice.

(2) During an employee's approved leave of absence, his position may be filled by temporary appointment, a temporary promotion, or detail of another employee. At the expiration of a leave without pay, the employee has the right

to and shall be reinstated in the position he vacated if the position still exists; or, if not, to any other vacant position in the same class.

Approved leave without pay shall not constitute a break in service.

Failure on the part of the employee to report promptly at the expiration of a leave without pay may be cause for dismissal. (1978 Code, § 1-838)

**4-250. Holiday leave.** Except as provided in § 4-203, the following holidays are observed by the city and shall be granted to all employees without charge to leave: to regular employees with pay and to temporary employees without pay, unless such employees are required to be on scheduled duty.

- (1) New Year's Day (January 1).
- (2) M. L. King Day (third Monday in January).
- (3) Memorial Day.
- (4) Independence Day (July 4).
- (5) Labor Day (First Monday in September).
- (6) Veterans Day (November 11).
- (7) Thanksgiving Day (Fourth Thursday in November).
- (8) Christmas Day (December 25).

Except as provided herein, it shall be the policy of the city to insure that all regular employees enjoy the same number of holidays each year. The standard shall be the number of holidays in a particular year, which shall be celebrated by regular employees working a forty (40) hour week, Monday through Friday. For this group, when a holiday falls on a Saturday, it shall be observed on the preceding Friday; when a holiday falls on Sunday, the following Monday shall be observed. For regular employees on a work-week other than Monday through Friday, the mayor shall designate the work-day, which shall be observed.

The granting of holidays observed by the city shall be subject to the following provisions:

(1) Holiday on scheduled work-day. Employees who are required to work on their observed holiday shall be granted either a work-day of leave or be paid for the time worked in accordance with the rules governing hours and overtime.

(2) Holiday for part-time regular employees. Part-time regular employees shall be paid for observed holidays which fall on days for which they would otherwise be scheduled to work, according to the number of hours for which they are scheduled to work on that day.

(3) Holiday during non-pay status. In order to receive pay for an observed holiday an employee must be in a work or paid leave status either his scheduled work-day immediately preceding or following the holiday, and must not have been absent without leave either the work-day before or after.

(4) Appointment or separation on holiday. The appointment or separation of a regular employee shall not be effected on a day to be observed as a holiday except when the employee works that day. (1978 Code, § 1-839)



**4-251. Civil leave.** An employee shall be given necessary time off without loss of pay when:

- (1) Performing jury duty;
- (2) Required by duties, or subpoenaed, to appear before a court, public body, or commission as a witness on behalf of the city, or because of his official capacity with the city;
- (3) Performing emergency civilian duty in connection with national defense;
- (4) For the purpose of voting when the polls are not open at least one (1) hour before or after the employee's scheduled hours of work. (1978 Code, § 1-840)

**4-252. Administrative emergency leave.** The mayor may excuse employees from duty in emergency situations for short periods of time. Examples of emergencies would be extreme weather conditions; disaster, such as fire, flood or other natural phenomena which prevent employees from working or reporting to work; breakdown of machines; and emergency rescue or protection work. In the event an employee is a member of the civil defense or other emergency rescue organization, such employee shall notify his department head of the emergency and the department head will make a personal investigation or inquiry into the emergency before releasing the employee to attend the same and the department head is charged with determining if the emergency is serious enough for the employee to take off from his work and said department head will make proper reports to the mayor and board of aldermen of the time lost by such employee in emergency rescue work. (1978 Code, § 1-841)

**4-253. Unauthorized absences.** An employee who is absent from duty without approval shall:

- (1) Receive no pay for the duration of the absence;
- (2) Be subject to dismissal or other appropriate disciplinary action.

It is recognized that there may be extenuating circumstances for unauthorized absence and due consideration shall be given each case as to the type of leave to be approved for other appropriate disciplinary action.

Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave.

Under ordinary circumstances, unavoidable or necessary absence from duty of less than one hour or tardiness may be excused without charge to leave if such absence or tardiness can be fully justified by the employee to his supervisor's satisfaction. Otherwise, such absence will be handled administratively, by requiring additional work, or by a charge against compensatory time which the employee may have to his credit, or by charging the time to the employee's leave account. If the employee is frequently tardy,

the supervisor should determine the cause of the tardiness in order to plan with the employee the corrective steps to be taken. (1978 Code, § 1-842)

**4-254. Leave for death in family.** An employee shall be given a maximum of two (2) work days off without loss of pay when the employee has suffered the death of his or her spouse, a parent or grandparent, a child or grandchild, a brother or sister, or a parent, grandparent, brother, sister or child of his or her spouse. Sick leave shall be requested and approved in accordance with the provisions of § 4-256 hereinafter. (1978 Code, § 1-843)

**4-255. Family and medical leave.** (1) Purpose. The purpose of this section is to make provisions for compliance with Public Law 103-3, titled the Family and Medical Leave Act of 1993.

(2) Definitions. (a) "Eligible employee." Eligible employees are those who have been employed for at least 12 months, who have provided at least 1,250 hours of service during the 12 months before leave is requested, and who work at a worksite where at least 50 employees are on the payroll (either at that site or within a 75-mile radius).

(b) "Parent." Mother or Father of an employee, or an adult who had day to day responsibility for caring for any employee during his or her childhood years in place of the natural parents.

(c) "Son of daughter/child." Biological, adopted, or foster child, a step child, legal ward, or child of a person standing in loco parentis, who are under the age of 18 years. Children who are 18 years or older qualify, if he or she is incapable of self care because of mental or physical disability.

(d) "Serious health condition." An illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider.

(3) Leave provisions. (a) An eligible employee may take up to 12 weeks of unpaid leave in a 12 month period for the birth of a child or the placement of a child for adoption or foster care. Leave may also be taken to care for a child, spouse, or parent who has a serious health condition. In addition, leave may be taken because of a serious health condition that causes an eligible employee to be unable to perform the essential functions of his or her job.

(b) The right to take leave applies equally to male and female employees who are eligible.

(c) FMLA Leave for the purposes of care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first 12 months following the date of birth or placement.

(d) An expectant mother may take FMLA leave upon the birth of the child, or prior to the birth of her child for necessary medical care and if her condition renders her unable to work. Similarly for adoption

or foster care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence from work is requested for the placement to proceed.

(e) FMLA leave is unpaid. However, paid sick leave, annual leave, holiday pay, and compensatory time earned or accrued must be substituted in place of FMLA leave until all such earned or accrued leave has been fully used. Any remaining FMLA leave will be unpaid.

(f) During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits during the leave period.

(g) If spouses are employed by the same employer and wish to take leave for the care of a new child or sick parent, their aggregate leave is limited to 12 weeks. For example, if the father takes 8 weeks of leave to care for a child, the mother would be entitled to 4 weeks leave, for a total of 12 weeks of leave.

(4) Notification and scheduling. (a) An eligible employee must provide the employer at least 30 days advance notice of the need of leave for birth, adoption of planned medical treatment, when the need for leave is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth, or sudden changes in a patient's condition that require a change in scheduled medical treatment.

(b) Parents who are awaiting the adoption of child and are given little notice of the availability of the child may also be exempt from the 30-day notice.

(5) Certification. (a) The employer reserves the right to verify an employee's request for family medical leave.

(b) If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee of the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. That health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that option will be final and binding.

(c) This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse, or parent and must include an estimate of

the amount of time that the employee is needed to care for the family member.

(d) Medical certifications given will be treated as confidential and privileged information.

(e) An employee will be required to report periodically to the employer the status and the intention of the employee to return to work.

(f) Employees who have taken unpaid leave under this policy must furnish the employer with a medical certification from the employee's health care provider that the employee is able to resume work before return is granted.

(6) Maintenance of health and COBRA benefits during unpaid leave.

(a) The employer will maintain health insurance benefits, paid by the employer for the employee, during periods of unpaid leave without interruption. Any payment for family coverage/s premiums, or other payroll deductible insurance policies if available, must be paid by the employee or the benefits may not be continued.

(b) The employer has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from recapture provision.

(c) Leave taken under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known what an employee will not be returning to work, and therefore ceases to be entitled to leave under this policy.

(7) Reduced and intermittent leave: (a) FMLA leave may be taken intermittently or on a reduced leave (part-time) basis when medically necessary as certified by the health care provider. If FMLA leave is taken for the birth of a child or the placement of a child for adoption or foster care, it must be taken at one time--not intermittently or on a reduced leave basis. The schedule must be mutually agreed upon by the employee and the employer.

(b) Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an alternate position that may better accommodate the intermittent or reduced leave schedule.

(c) Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but will not exceed the equivalent of 12 workweeks total leave in a one 12-month period.

(8) Restoration. (a) Employees who are granted leave under this policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.

(b) Certain highly compensated key employees, who are salaried and among the 10% highest paid employees, may be denied restoration. Restoration may be denied if:

(i) The employee shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations,

(ii) The employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur, and

(iii) In any case in which the leave has commenced, the employee elects not to return to work within A reasonable period of time after receiving such notice.

(9) The 12-Month FMLA period: The 12-month period during which an employee is entitled to 12 workweeks of FMLA leave begins on the first (1st) day of July and ends on the thirtieth (30th) day of June of each year. An eligible employee is entitled to 12 weeks of FMLA leave during each 12 month period. (1978 Code, § 1-843.1)

**4-256. Procedure for requesting leave.** For all leave other than official holiday, sick, and administrative emergency leave, a written request indicating the kind of leave, duration and dates of departure and return must be approved prior to the taking of leave. The request for leave should be submitted prior to beginning the leave. In the case of sick leave, the leave form shall be completed and submitted for approval immediately upon the employee's return to duty.

Unless an absence is substantiated by a leave form approved by the mayor or his designee, an employee shall not be paid for any absence from scheduled work hours. (1978 Code, § 1-844)

**4-257. Retirement.** (1) All employees hired after passage of this paragraph shall contribute the employee's share of the retirement contributed to the Tennessee Consolidated Retirement System and such contribution shall be deducted from employee's salary.

(2) All employees working for the City of Sparta who were working upon the entry of the city to the Tennessee Consolidated Retirement System shall contribute his/her proportionate share of the retirement pay for all money drawn on overtime from his/her work as employees of the City of Sparta, Tennessee. By way of explanation to this and the above paragraph, the City of Sparta agreed to pay all retirement payments for those employees on payroll at the time of the entry by the City of Sparta into the Tennessee Consolidated Retirement System. This amendment will not affect the payment by the city of all retirement pay based on the regular payroll of the employees; however, on all overtime payments, the employee will contribute his share of the retirement payment on those amounts earned as overtime. (1978 Code, § 1-845, modified)

**4-258. Records.** The city recorder and department heads shall maintain an adequate record of their official acts under this chapter and the employment record of every employee. (1978 Code, § 1-846)

**4-259. Reports.** Department heads shall submit promptly data on proposed appointments, status changes or separations pertaining to the classified service at such time, in such form, and with such supporting information as these rules prescribed or as the mayor shall deem necessary. (1978 Code, § 1-847)

**4-260. Purpose and intended use of vehicles owned by City of Sparta.** It is the purpose of this and the following sections to establish a definite policy on use of all city vehicles. All vehicles owned by the City of Sparta are for use by city employees in performance of official duties. (1978 Code, § 1-849)

**4-261. Uses prohibited.** No vehicle will be used by any city employee or his personal use and no passengers will be carried in city vehicles except city employees. In the case of the police department, passengers such as prisoners and other persons deemed necessary in the line of special duties shall be permitted. (1978 Code, § 1-850)

**4-262. Permitted exceptions.** When the mayor and board of aldermen determine that it is essential that any employee retain a specific vehicle overnight or over a weekend or holiday, the board and/or mayor shall then authorize such after hour retention. In case of riots, disaster, emergencies, etc., the mayor shall then authorize retention of vehicles as the situation required. (1978 Code, § 1-851)

**4-263. Parking of vehicles.** All city owned vehicles when not being used for official use shall be parked in the lighted and patrolled parking area located at the city garage. Keys for all vehicles will be removed and secured in the garage office when vehicle is parked. (1978 Code, § 1-852)

**4-264. Drug policy<sup>1</sup> declared to ensure safe and efficient working environment.** The City of Sparta has the responsibility to maintain a safe and efficient working environment. Employees who use drugs or who work while under the influence of drugs or alcohol present a safety hazard to themselves, to fellow employees, and to the public. Moreover, the use of drugs and alcohol by employees limits the city's ability to provide prompt and courteous municipal

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<sup>1</sup>Municipal code reference

Drug and alcohol testing policy: title 4, chapter 7.

services and work with the highest amount of efficiency and safety. Accordingly, these sections are adopted to ensure that the City of Sparta continues to maintain its reputation as a quality employer and maintain the public trust and confidence by providing municipal services in a prompt, courteous, safe, and efficient manner. (1978 Code, § 1-853)

**4-265. Use of alcohol<sup>1</sup> or non-prescription drugs prohibited.**

Employees are prohibited, while on duty, on city property, or operating city equipment and vehicles, from being under the influence of alcohol or illegal non-prescription drugs. Moreover, employees may not possess, sell, solicit, or receive alcohol or illegal non-prescription drugs while on duty or on city property for reasons other than those which may be related to the duties of their employment. The violation of this policy is grounds for immediate termination. (1978 Code, § 1-854)

**4-266. Inspections permitted.** The city reserves the right to require employees, while on duty, or while on city property (including parking lots), to agree to inspections of their persons, vehicles, lockers and personal property. If an employee withholds consent to such an inspection, the city may discipline the employee, up to and including termination. (1978 Code, § 1-855)

**4-267. Drug testing.** The city reserves the right to conduct drug testing on:

- (1) An applicant for employment;
- (2) An employee applying for a promotion;
- (3) An employee who is requested to take a physical examination;
- (4) An employee who experiences decreased job performance, who is involved in an accident on the job, who experiences increased absenteeism or tardiness, or who otherwise reasonably gives an indication of alcohol or drug use;
- (5) An employee who returns to work after being away on leave or otherwise absent from work for a period of time of more than 30 days; or
- (6) Any employee in a safety sensitive or dangerous job on a random basis to ensure that this policy is being complied with by all employees. (1978 Code, § 1-856)

**4-268. Lab procedures.** All drug testing will be performed by a qualified laboratory. Test results will be the city's property and will remain confidential. If an employee tests positive for the use of alcohol or drugs, a confirmatory test will be given. If an employee also tests positive on the

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<sup>1</sup>Municipal code reference

Drug and alcohol testing policy: title 4, chapter 7.

confirmatory test, the city may discipline the employee, up to and including termination. If an employee refuses to submit to a drug test when requested by the city, the city may discipline the employee, up to and including termination. (1978 Code, § 1-857)

**4-269. Purpose.** To provide guidelines for the administration of employee salaries, including starting pay rates, pay increases, promotional increases, and other salary adjustments.

(1) Policy objectives. This policy is intended to promote the following:

(a) Ensure competitive pay practices to allow the City of Sparta to effectively compete in the market for the talent needed to meet and exceed its performance standards.

(b) Ensure fair and unbiased treatment of employees relative to pay administration.

(c) Ensure that the City of Sparta salary expense is consistent with taxpayers' expectations for reasonable labor costs.

(2) Definitions. For the purpose of, and as used in, title 4, chapter 2 of the Sparta City Code:

(a) The term "eligible" shall mean qualified to receive, and shall not connote a right or entitlement to a sum, rate, benefit, position or compensation. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006, as amended by Ord. #09-839, Sept. 2009)

**4-270. Job descriptions.** A written job description is to be maintained for each position recognized by the City of Sparta. Job descriptions are to be written so as to meet the requirements of all applicable state and federal laws and regulations. Job descriptions are to be reviewed by incumbents and/or supervisors to ensure they are up to date. Supervisors are responsible for accurate, up-to-date, job documentation. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-271. Pay grades and pay ranges.** (1) Number of pay grades. Pay is to be administered within twelve classifications, or pay grades.

(2) Pay steps. Each pay grade will be assigned a series of pay steps. There will seven (7) pay steps for each pay grade.

(3) Adjustment of pay steps. The pay table will be reviewed on a biennial basis and will be adjusted if necessary to ensure that the city's pay practices remain competitive with changes in labor market conditions. As appropriate, this review will consist of:

(a) Gathering comparative salary data for benchmark jobs from published sources or direct contacts with competing employers,

(b) Comparing market salary data obtained for each benchmark job with the corresponding City of Sparta pay steps (step 4 should approximate the salary survey average for the benchmark jobs in any particular pay grade), and

(c) If necessary, adjusting the City of Sparta pay ranges so that step 4 will approximate the market value for jobs in each pay grade. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)



**4-272. Assignment of jobs.** Each job is to be assigned to the pay grade for which the step 4 best matches the competitive market value for the job. Deviations may be made if strategic business considerations dictate that certain jobs (not employees) should be valued differently than their market value. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-273. Rates of pay.** (1) Starting rates. New hires possessing the minimum level of skills, knowledge, and abilities required by a job are normally hired at step 1 for the job. Candidates with more relevant experience, more education, or higher skill level than normally required may be hired at step 2, 3 or 4 pending recommendation of the city administrator or utilities manager and provided written notice of such action is submitted to the mayor prior to final approval for hiring. The current pay rates, qualifications, and skill levels of existing job incumbents should be carefully considered before a new employee is hired at step 2 or above.

(2) Rates above the pay range. Step 7 of each pay range is intended to serve as a guideline for management for the highest pay rate the City of Sparta will normally pay an employee for a particular job. Instead of annual step increases, employees paid at rates above step 7 are eligible only for lump sum payments.

(3) Rates below the minimum. It is possible that employees' pay rates, probably for recent hires, will occasionally fall below step 1 upon adjustment of the pay table itself. Normally, the pay rates of such employees will be immediately adjusted to the new step 1 at the time the new pay table becomes effective. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-274. Pay adjustments.** (1) Step increases. (a) Eligibility. All regular full-time and part-time employees in good standing whose current pay rate is in step 6 or below are eligible for a pay increase on July 1<sup>st</sup> of each year provided the employee has been in their current step for at least six (6) months. Employees who have not been in their current step for at least six (6) months at July 1<sup>st</sup> will be advanced a step at such time as they do meet the six month criteria for step increases. Employees who have been placed on disciplinary status will not receive a step increase until such disciplinary action has been resolved.

(b) Step increase amount. The base pay rate of employees eligible to receive a step increase will be increased to the next step in their pay grade. An employee whose pay rate has advanced to step 7 is not eligible to receive any step increase.

(c) Step increases--employees on leave of absence. Scheduled step increases will be postponed for employees on approved medical or personal leave of absence until they return to work. Step increases will be postponed beyond the date of return to work in cases where such absence exceeds four months (will normally be postponed one additional month for every month of leave beyond four).

(d) Merit increases--employees on light duty. Employees in light duty positions are eligible for a step increase just like all other regular active employees.

(2) Budgetary limitations. An employee eligible for a step increase, merit increase or pay adjustment may receive such increase or adjustment only upon approval of the annual budget of the city each fiscal year by an amount or amounts allocated by payment of such increase, and based upon the reasonable projection or receipt of the revenues to be received by the city as budgeted. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006, as amended by Ord. #09-839, Sept. 2009)

**4-275. Pay structure adjustment increases.** The pay table for the City of Sparta may be adjusted periodically to keep pace with the labor market. Normally this adjustment will be effective July 1 or the beginning of the fiscal year. At the time any adjusted pay table is put into effect, the pay rates of all employees will be adjusted to the same corresponding step in the new pay table. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-276. Lump sum payments--employees in step 7.** (1) Eligibility. An employee whose pay rate is in step 7 does not receive a step increase. Instead, he/she is eligible to receive a lump sum payment. To receive a lump sum payment:

(a) The employee must be on the City of Sparta payroll as of June 30th. Eligible employees who retire before June 30th will receive a prorated portion of the payment based on the portion of the year actively employed.

(b) The employee's job performance must be satisfactory, and

(c) The employee must not be subject to disciplinary action for violation of city policies as of June 30.

(2) Lump sum amount. The amount of the lump sum payment is calculated by multiplying the employee's total earnings for the 12 month period ending June 30<sup>th</sup> less any lump sum payments received during the prior year by the percent based on tenure indicated in Table 1. The percentage used to calculate the lump sum payment gradually increases based on years of service with the city.

Table 1			
Years of Service	Percent of Pay	Years of Service	Percent of Pay
1	1.10%	21	3.10%
2	1.20%	22	3.20%
3	1.30%	23	3.30%
4	1.40%	24	3.40%
5	1.50%	25	3.50%

6	1.60%	26	3.60%
7	1.70%	27	3.70%
8	1.80%	28	3.80%
9	1.90%	29	3.90%
10	2.00%	30	4.00%
11	2.10%	31	4.10%
12	2.20%	32	4.20%
13	2.30%	33	4.30%
14	2.40%	34	4.40%
15	2.50%	35	4.50%
16	2.60%	36	4.60%
17	2.70%	37	4.70%
18	2.80%	38	4.80%
19	2.90%	39	4.90%
20	3.00%	40	5.00%

Years of service are to be based on the duration of continuous service with the City of Sparta calculated from the employee's date of hire to June 30. Continuous service is defined as being on the city's payroll. In the case of a break in service, the most recent hire date is to be used in calculating length of continuous service.

(3) When paid. The lump sum payment is to be paid with the first payroll in July of each year.

(4) Tax withholding. Lump sum payments will be subject to standard tax withholding.

(5) Lump sum payments in lieu of step increases when calculated according to the provisions contained herein shall be limited to \$2,000 per employee.

(6) Budgetary limitations. An employee eligible for a lump sum payment will not be paid or will not be entitled to receive such lump sum unless it is included in the annual budget of the city for the year eligibility by allocation of the amount for such payment based upon the reasonable projection of revenues to be received by the city as budgeted and as received. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006 and amended by Ord. #09-839, Sept. 2009)

**4-277. Promotional increases.** (1) Definition of promotion. Placement of an individual in a job which is in a pay grade that is higher than the individual's current pay grade will be considered a promotion. (Temporary job reassignments of less than six months will not normally be considered a promotion.)

(2) Increase amount. At the time of the promotion, the individual's salary is to be adjusted to reflect the increased demands and responsibility of

the new position. Normally, the employee's pay rate will be increased to the step rate in the higher pay grade that represents at least a 5% increase over his/her current pay rate. (Exception for police officers and firefighters: individuals without prior (respectively) law enforcement or firefighting experience promoted to police officer or firefighter would start at step 1 even if this means a reduction in pay.) (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-278. Temporary reassignment.** Adjustments to pay rates of employees assigned temporarily (for less than six months) to perform work of higher level jobs will be made at the discretion of management. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-279. Lateral job reassignments.** Reassignment from one job to another in the same pay grade will be considered a lateral move. No immediate adjustment to pay will be made. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-280. Demotions or reassignment to a lower pay grade.** Demotions occur when an employee is returned or transferred to a position in a lower pay grade. Additionally, employees may voluntarily ask to move to a job in a lower pay grade, perhaps through the job posting/bidding process. If an employee was promoted and subsequently returns to the original (lower) job, his/her pay rate would be adjusted to the step it would equal if the promotion had not occurred. Whether or not a reduction in pay should occur in other situations depends on consideration of the following:

- (1) Was the demotion related to the employee's performance or to a reduction in force or organizational change?
- (2) How will the employee's pay rate compare with pay rates of other incumbents in the lower graded job or similar jobs?
- (3) How long has the employee been in the former job?
- (4) Where will the employee's pay rate fall in the new (lower) pay range?
- (5) What has been the city's past practice in similar situations?

It is often sound practice to reduce the employee's pay rate to be consistent with rates of pay of other incumbents in the new job who possess similar skills and tenure. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-281. Re-classification of position.** Re-classification of a job may occur if warranted by significant changes in job responsibilities. Section 4-280 above would apply to re-classification of a job to a lower pay grade. For an employee whose job was re-classified to a higher pay grade, the employee's pay would be adjusted to the step in the new pay grade corresponding to the employee's step in the "old" pay grade, e.g., pay of an employee in step 2, grade

3 whose job is re-classified to pay grade 4 would be adjusted to step 2, pay grade 4.

Re-classification of a job to a higher pay grade normally would not result in any adjustment in pay unless the incumbent's pay rate is below the minimum of the new pay range. In such cases, the employee's pay rate is to be adjusted to step 1 of the new pay range. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

**4-282. Light duty assignments.** The pay rates of employees assigned light duty positions as part of a rehabilitation program will be reduced if the light duty jobs are in a lower pay grade than their regular jobs. The amount of the reduction is to be determined as in § 4-280 above. (Ord. #98-710, Sept. 1998, as replaced by Ord. #06-808, June 2006)

## CHAPTER 3

### MISCELLANEOUS REGULATIONS – CITY PERSONNEL

#### SECTION

4-301. Business dealings.

4-302. [Repealed.]

4-303. [Repealed.]

4-304. Political activity.

4-305. [Repealed.]

4-306. [Repealed.]

4-307. Strikes and unions.

**4-301. Business dealings.** Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the municipality. (1978 Code, § 1-1001)

**4-302. [Repealed.]** (1978 Code, § 1-1002, as repealed by Ord. #06-816, Oct. 2006)

**4-303. [Repealed.]** (1978 Code, § 1-1003, as repealed by Ord. #06-816, Oct. 2006)

**4-304. Political activity.** Municipal officers and employees shall enjoy the same rights as other citizens of Tennessee to be a candidate for any state or local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities; provided the city is not required to pay the employee's salary for work not performed for the city. Municipal employees shall not be qualified to run for elected office in the board of mayor and aldermen. The restriction against running for office in the city council shall not apply to elective officials or to off-duty law enforcement officers acting as private citizens. (1978 Code § 1-1004, modified)

**4-305. [Repealed.]** (1978 Code, § 1-1005, as repealed by Ord. #06-816, Oct. 2006)

**4-306. [Repealed.]** (1978 Code, § 1-1006, as repealed by Ord. #06-816, Oct. 2006)

**4-307. Strikes and unions.** No municipal officer or employee shall participate in any strike against the municipality. (1978 Code, § 1-1007, modified)

## CHAPTER 4

### **OCCUPATIONAL SAFETY AND HEALTH PROGRAM**

#### **SECTION**

- 4-401. Creation.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program.

**4-401. Creation.** This section shall provide authority for establishing and administering the occupational safety and health program for employees in all departments governed by the Board of Mayor and Aldermen of the City of Sparta. (1978 Code, § 1-901, as replaced by Ord. #03-769, Aug. 2003)

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

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

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;
- (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
- (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

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

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

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

(10) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are



considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(12) 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. (1978 Code, § 1-902, as replaced by Ord. #03-769, Aug. 2003)

**4-403. Coverage.** The provisions of the occupational safety and health program for the employees of the City of Sparta shall apply to all employees of each administrative department, commission, board, division, or other agency of the city whether part-time or full-time, seasonal or permanent. (1978 Code, § 1-903, as replaced by Ord. #03-769, Aug. 2003)

**4-404. Standards authorized.** The occupational safety and health standards adopted by the City of Sparta are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 5). (as added by Ord. #03-769, Aug. 2003)

**4-405. Variances from standards authorized.** The City of Sparta may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 5. Prior to requesting such temporary variance, the city administrator shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the city administrator shall be deemed sufficient notice to employees. (as added by Ord. #03-769, Aug. 2003)

**4-406. Administration.** For the purposes of this chapter, the City Administrator for the City of Sparta is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the city's plan. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety

and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #03-769, Aug. 2003)

**4-407. Funding the program.** Sufficient funds for administering and staffing the program pursuant to this resolution shall be made available as authorized by the Sparta Board of Mayor and Aldermen. (as added by Ord. #03-769, Aug. 2003)

## CHAPTER 5

### INFECTIOUS DISEASE CONTROL POLICY

#### SECTION

- 4-501. Purpose.
- 4-502. Coverage.
- 4-503. Administration.
- 4-504. Definitions.
- 4-505. Policy statement.
- 4-506. General guidelines.
- 4-507. Hepatitis B vaccinations.
- 4-508. Reporting potential exposure.
- 4-509. Hepatitis B virus post-exposure management.
- 4-510. Human immunodeficiency virus post-exposure management.
- 4-511. Disability benefits.
- 4-512. Training regular employees.
- 4-513. Training high risk employees.
- 4-514. Training new employees.
- 4-515. Records and reports.
- 4-516. Legal rights of victims of communicable diseases.
- 4-517. Amendments and repeals.

**4-501. Purpose.** It is the responsibility of the City of Sparta to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of Sparta, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (1978 Code, § 1-904(1))

**4-502. Coverage.** Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to infectious material from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Police personnel;
- (2) Firefighters;

- (3) Sanitation workers; and
- (4) Any other employee deemed to at high risk per this policy and an exposure determination. (1978 Code, § 1-904(2))

**4-503. Administration.** This infection control policy shall be administered by the city administrator and utilities manager for their respective departments or a representative so designated who shall have the following duties and responsibility:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of the chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (1978 Code, § 1-904(3))

**4-504. Definitions.** (1) "Body fluid" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

(2) "Exposure" - the contact with blood or other body fluids to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potentially for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through

sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

(5) "Tuberculosis (TB)" - an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with body fluids to be protected as though such body fluid were HBV or HIV infected. (1978 Code, § 1-904(4))

**4-505. Policy statement.** All blood and other potentially infectious materials are potentially infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions".

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (1978 Code, § 1-905(1))

**4-506. General guidelines.** General guidelines which shall be used by everyone include:

(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or other potentially infectious materials which require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or other potentially infectious materials to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments.

(5) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact

(or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

- (a) While handling an individual where exposure is possible;
- (b) While cleaning or handling contaminated items or equipment;
- (c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employee shall not wash or disinfect surgical or examination gloves for reuse.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel who provide or potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other potentially infectious materials.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. **NOTE:** Sharp objects must be placed in an impervious container and then taken to a hospital for disposal.

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "**BIOHAZARD**", or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.

(c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(13) Fabrics soiled with blood or potentially infectious materials shall be handled as little as possible. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

(14) The employee handling contaminated materials should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

(15) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (1978 Code, § 1-905(2))

**4-507. Hepatitis B vaccinations.** The City of Sparta shall offer the appropriate hepatitis B vaccination to employees at risk of exposure free of charge and in amounts at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the city administrator/utilities manager. (1978 Code, § 1-906(1))

**4-508. Reporting potential exposure.** City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

(1) Notify the city administrator/utilities manager of the contact incident and details thereof.

(2) Complete the appropriate accident reports and any other specific form required.

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available.

Post-test counseling and referral for treatment should also be provided. (1978 Code, § 1-906(2))

**4-509. Hepatitis B virus post-exposure management.** For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (1978 Code, § 1-906(3))

**4-510. Human immunodeficiency virus post-exposure management.** For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available



by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (1978 Code, § 1-906(4))

**4-511. Disability benefits.** Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. § 50-6-303. (1978 Code, § 1-906(5))

**4-512. Training regular employees.** On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious material. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (1978 Code, § 1-907(1))

**4-513. Training high risk employees.** In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated as per this policy. (1978 Code, § 1-907(2))

**4-514. Training new employees.** During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work. (1978 Code, § 1-907(3))

**4-515. Records and reports.** (1) Reports. Occupational injury and illness records shall be maintained by the city administrator/utilities manager. Statistics shall be maintain on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gama globulin, hepatitis B immune globulin, hepatitis B vaccine, etc... ) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the town be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (1978 Code, § 1-908)

**4-516. Legal rights of victims of communicable diseases.** Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officers who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and, or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstances not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease,

that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (1978 Code, § 1-909)

**4-517. Amendments and repeals.** (1) Amendments. Amendments or revisions of these rules may be recommended for adoption by any elected official, the city administrator or utilities manager, or by department heads. Such amendments or revisions of these rules shall be by ordinance and shall become effective after approval by the board of mayor and aldermen.

(2) Repeal. If any provision of these sections, or if any policy or order thereunder, or the application of any provision to any person or circumstances is held invalid, the remainder of the sections and the application of the provision of this section or of the policy or order to persons or circumstances other than those to which it is held invalid shall not be affected thereby. (1978 Code, § 1-910)

## CHAPTER 6

### **TRAVEL REIMBURSEMENT REGULATIONS**

#### **SECTION**

- 4-601. Purpose.
- 4-602. Definitions.
- 4-603. Enforcement.
- 4-604. General travel policy.
- 4-605. Travel reimbursement rates.
- 4-606. Administrative procedures.

**4-601. Purpose.** The purpose of this section is to bring the city into compliance with Pub. Acts 1993, ch. 433 of the Tennessee General Assembly. This act requires Tennessee municipalities to adopt regulations covering travel and other expenses associated with travel that are incurred by "any mayor and any member of the local governing body and board or committee member elected or approved by the mayor, local governing body, and any official or employee of the municipality whose salary is set by charter or general law".

In order to provide consistency in travel regulations and reimbursement, this section is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (1978 Code, § 1-1008(1))

**4-602. Definitions.** Chief Administrative officer(s) (CAO). The City Administrator and/or Utilities Manager of the City of Sparta. (1978 Code, § 1-1008(2))

**4-603. Enforcement.** The chief administrative officer(s) (CAO) of the city or his/her designee shall be responsible for the enforcement of these travel regulations. (1978 Code, § 1-1008(3))

**4-604. General travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" shall mean any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter.

(2) Authorized travelers are entitled to reimbursement for certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation, lodging, meals, registration fees for conferences, conventions, and seminars, and other actual and necessary expenses related to official business as determined by the

CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

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

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

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

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

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

(6) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances. (1978 Code, § 1-1008(4))

**4-605. Travel reimbursement rates.** (1) Use of private vehicles. Authorized travelers shall be reimbursed at the current federal rate as authorized by IRS regulations for automobile mileage. The city's reimbursement rates for use of a personal automobile will automatically change when the federal rates are adjusted.

(2) Meals, lodging, conference registration fees, conventions, seminars, and other education programs. The municipality may reimburse the traveler or pay directly to the provider for reasonable and customary expenses for meals, lodging, registration fees for conferences, conventions, seminars, and other education programs. (1978 Code, § 1-1008(5))

**4-606. Administrative procedures.** The CAO is authorized to develop administrative policies and procedures as necessary to provide for the implementation and utilization of this section. (1978 Code, § 1-1008(6))

## CHAPTER 7

### **DRUG AND ALCOHOL TESTING POLICY**

#### **SECTION**

- 4-701. Purpose of the policy.
- 4-702. Scope.
- 4-703. Consent form.
- 4-704. Compliance with substance abuse policy.
- 4-705. General rules.
- 4-706. Drug testing.
- 4-707. Alcohol testing.
- 4-708. Education and training.
- 4-709. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result.
- 4-710. Voluntary disclosure of drug and/or alcohol use.
- 4-711. Exceptions.
- 4-712. Modification of policy.
- 4-713. Definitions.

**4-701. Purpose of the policy.** The City of Sparta, Tennessee recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City of Sparta, Tennessee to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the City of Sparta, Tennessee are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of Sparta, Tennessee has adopted this drug and alcohol testing policy. This policy complies with the Drug Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are:

- pre-employment after a conditional offer of employment has been made prior to the final offer of employment,
- transfer,
- reasonable suspicion,
- post-accident (post-incident),
- random,
- return-to-duty,
- follow-up.

It is the policy of the City of Sparta, Tennessee that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol is prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

- (1) Being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;
- (2) Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on city property;
- (3) Refusing, or failing a drug and/or alcohol test administered under this policy;
- (4) Providing an adulterated, altered, or substituted specimen for testing;
- (5) Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
- (6) Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

For employees in safety sensitive positions that could result in harm to himself or herself or others, it is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse, the effects of drug and/or alcohol abuse on an individual's health, work, and personal life, the city's/town's policy regarding drugs and/or alcohol, and the availability of counseling. The city administrator and utilities manager have been designated as the municipal officials responsible for answering questions regarding this policy and its implementation.

All City of Sparta, Tennessee property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property.

Property includes, but is not limited to, vehicles, desks, containers, files, and lockers. (Ord. #95-684, Jan. 1996, modified)

**4-702. Scope.** Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the City of Sparta, Tennessee. The policy also applies to applicants for positions requiring a CDL who have been given a conditional offer of employment from the City of Sparta, Tennessee. (Ord. #95-684, Jan. 1996)

**4-703. Consent form.** Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer, or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing policy.

The consent form shall set forth the following information.

(1) The procedure for confirming and verifying an initial positive test result,

(2) The consequences of a verified positive test result, and

(3) The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system. (Ord. #95-684, Jan. 1996)

**4-704. Compliance with substance abuse policy.** Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination. (Ord. #95-684, Jan. 1996)

**4-705. General rules.** These are the general rules governing the City of Sparta, Tennessee's drug and alcohol testing program:

(1) City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employee's go on duty.

(2) City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.



(3) All City of Sparta, Tennessee property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. City property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

(4) Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five days of the conviction occurring. Failure to so inform the city subjects the employee to disciplinary action up to and including termination for the first offense. The city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act. (Ord. #95-684, Jan. 1996)

**4-706. Drug testing.** An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six separate conditions:

(1) Types of tests. (a) Pre-employment. All applicants for employee status for positions requiring a CDL who have received a conditional offer of employment with the City of Sparta, Tennessee, must take a drug test before receiving a final offer of employment.

(b) Transfer. Employees transferring to another position within the city that requires a commercial driver's license (CDL) shall undergo drug testing.

(c) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel of the City of Sparta, Tennessee to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the City of Sparta, Tennessee reserves the right to instruct

the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(i) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of Sparta, Tennessee to the designated urine specimen collection site within 32 hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the designated urine specimen collection site within 32 hours. No employee shall consume drugs prior to completing the post accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the City of Sparta, Tennessee and shall result in administrative action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Sparta, Tennessee appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Sparta, Tennessee or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's

system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

(d) Testing based on reasonable suspicion. A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Sparta, Tennessee making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city administrator/utilities manager within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

(e) Random testing. Only employees of the City of Sparta, Tennessee possessing or wishing to obtain a commercial driver's license (CDL) are subject to random urine drug testing. (Note - The requirement to randomly test police, fire, or electric department employees is optional.) It is the policy of the City of Sparta, Tennessee to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e. vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of Sparta, Tennessee may omit that employee from that random testing or await the employee's return to work.

(f) Return-to-duty and follow-up. Any employee of the City of Sparta, Tennessee who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Follow-up tests will be unannounced and at least six tests will be conducted in the first 12 months after an employee returns to

duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

(2) Prohibited drugs. All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the city administrator/utilities manager. The following is a list of drugs for which tests will be routinely conducted. Cut-off levels are as established by applicable federal and state laws and regulations.

- (a) Amphetamines,
- (b) Marijuana, cocaine,
- (c) Opiates,
- (d) Phencyclidine (PCP),
- (e) Alcohol, and
- (f) Depressants.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

(3) Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the City of Sparta, Tennessee to a drug test collection facility selected by the City of Sparta, Tennessee where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City of Sparta, Tennessee to perform the analysis on collected urine samples.

(4) Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee

has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the city administrator/utilities manager.

(5) Reporting and reviewing. The City of Sparta, Tennessee shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders.

(a) The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of Sparta, Tennessee.

(b) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

(c) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the city administrator/utilities manager, and the employee.

(d) Neither the City of Sparta, Tennessee, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney. (Ord. #95-684, Jan. 1996)

**4-707. Alcohol testing.** An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to alcohol testing under six separate conditions:

(1) Types of tests. (a) Post-accident/post-incident testing. Following any workplace accident (incident) determined by supervisory personnel of the City of Sparta, Tennessee to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as

determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

(i) Post-accident (post-incident) testing for ambulatory employees. Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of Sparta, Tennessee to the designated breath alcohol test site for a breath alcohol test within two hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the designated breath alcohol test site within two hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the City of Sparta, Tennessee and shall result in administrative action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Sparta, Tennessee appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Sparta, Tennessee or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employees system. Only an accepted method for collecting specimens will be

used. Any failure to do post-accident (post-incident) testing within two hours must be fully documented by the attending medical personnel.

(b) Testing based on reasonable suspicion. An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Sparta, Tennessee making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city administrator/utilities manager within eight hours of the decision to test and before the results of the tests are received by the department.

(c) Random testing. Only employees of the City of Sparta, Tennessee possessing or wishing to obtain a commercial driver's license (CDL) are subject to random alcohol testing. It is the policy of the City of Sparta, Tennessee to annually random test for alcohol at least 25 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e. vacation, sick day, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the City of Sparta, Tennessee may omit that employee from that random testing or await the employee's return to work.

(d) Return-to-duty and follow-up. Any employee of the City of Sparta, Tennessee who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

(2) Alcohol testing procedures. All breath alcohol testing conducted for the City of Sparta shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

(Note - The Sparta Police department cannot do this testing unless the test is required because of a traffic accident (incident).)

Alcohol testing is to be performed by a qualified technician as follows:

(a) Step one. An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

(b) Step two. Fifteen minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City of Sparta, Tennessee up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the City of Sparta, Tennessee.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City of Sparta, Tennessee when possible.

The completed breath alcohol test form shall be submitted to the city administrator/utilities manager. (Ord. #95-684, Jan. 1996)



**4-708. Education and training.** (1) Supervisory personnel who will determine reasonable suspicion testing. Training for supervisory personnel who will be responsible for determining whether an employee must be tested based on reasonable suspicion will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The City of Sparta, Tennessee will sponsor a drug-free awareness program for all employees.

(2) Distribution of information. The minimal distribution of information for all employees will include the display and distribution of:

- (a) Informational material on the effects of drug and alcohol abuse;
- (b) An existing community services hot-line number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
- (c) The City of Sparta, Tennessee policy regarding the use of prohibited drugs and/or alcohol; and
- (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace. (Ord. #95-684, Jan. 1996)

**4-709. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result.** Job applicants will be denied employment with the City of Sparta, Tennessee if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The city may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the city as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through a program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of

city personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that an employee:

(1) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(3) Engages in conduct that clearly obstructs the testing process.

In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test. (Ord. #95-684, Jan. 1996)

**4-710. Voluntary disclosure of drug and/or alcohol use.** In the event that an employee of the City of Sparta, Tennessee is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private. Such voluntary desire for help with a substance abuse problem will be honored by the City of Sparta, Tennessee. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the City of Sparta, Tennessee may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

(1) The employee must use all vacation, sick, and compensatory time available.

(2) In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30 day treatment period. An exception to the 30 day rule applies to cases where the provisions of the Family and Medical Leave Act (FMLA) are applicable in which cases the length of leave time granted is up to 12 weeks.

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to recommendation from the substance abuse professional (SAP) of the City of Sparta, Tennessee. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and city administrator/utilities manager of the City of Sparta, Tennessee will consider

each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Sparta, Tennessee. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy. (Ord. #95-684, Jan. 1996, modified)

**4-711. Exceptions.** This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol and/or drugs. (Ord. #95-684, Jan. 1996)

**4-712. Modification of policy.** This statement of policy may be revised by the City of Sparta, Tennessee at any time to comply with applicable federal and state regulations that may be implemented to comply with judicial rulings or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the City of Sparta, Tennessee. (Ord. #95-684, Jan. 1996)

**4-713. Definitions.** For purposes of the drug and alcohol testing policy, the following definitions are adopted:

(1) "Alcohol." The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

(2) "Alcohol concentration." The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

(3) "Alcohol use." The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

(4) "Applicant." Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to a position requiring a commercial driver's license (CDL). For the purposes of this policy, an applicant may also be an employee transferring to or applying for a position requiring a CDL.

(5) "Breath Alcohol Technician (BAT)." An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

(6) "Chain of custody." The method of tracking each urine specimen to maintain control from initial collection to final disposition of such samples and accountability at each stage of handling, testing, storing, and reporting.

(7) "Collection site." A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

(8) "Collection site personnel." A person who instructs donors at the collection site.

(9) "Commercial Drivers License (CDL)." A motor vehicle driver's license required to operate a commercial motor vehicle (CMV).

(10) "Commercial Motor Vehicle (CMV)." Any vehicle or combination of vehicles meeting the following criteria: weighing more than 26,000 pounds; designed to transport more than 15 passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

(11) "Confirmation test." In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

(12) "Confirmed positive result." The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

(13) "Consortium." An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

(14) "Department director." The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

(15) "DHHS." The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

(16) "DOT agency." An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the City of Sparta, Tennessee, the Federal Highway Administration (FHWA) is the DOT agency.

(17) "Driver." Any person who operates a commercial motor vehicle.

(18) "Employee." An individual currently employed by the City of Sparta, Tennessee.

(19) "Evidential Breath Testing Device (EBT)." An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

(20) "FHWA." Federal Highway Administration.

(21) "Initial test." In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

(22) "Medical Review Officer (MRO)." A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

(23) "Negative result." The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

(24) "NHTSA." National Highway and Traffic Safety Administration.

(25) "Refuse to submit." Refusing to submit to an alcohol or controlled substances test means that a driver:

(a) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(b) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(c) Engages in conduct that clearly obstructs the testing process.

(26) "Safety-sensitive drivers." Employees in the aviation, motor carrier, railroad, and mass transit industries.

(27) "Split specimen." Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

(28) "Substance abuse professional." A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and

treatment of alcohol and controlled substances-related disorders. (Ord. #95-684, Jan. 1996)

## TITLE 5

### MUNICIPAL FINANCE AND TAXATION<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING PROCEDURES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 5-101. Disbursements.  
5-102. Audits required.  
5-103. Audits to be public record; publication.

**5-101. Disbursements.** All disbursements of municipal funds shall be by joint check of the mayor and recorder. (1978 Code, § 6-401)

**5-102. Audits required.** It shall be the duty of the board of mayor and aldermen to have a thorough audit of the financial affairs of the municipality, including all receipts from every source and every expenditure or disbursement of the money of the municipality, made by a disinterested person skilled in such work, as often as every two (2) years. Each audit shall cover the period extending back to the date of the last preceding audit. The cost of each audit shall be paid out of the funds of the municipality, and a sufficient sum shall be appropriated for the purpose by the board. (1978 Code, § 6-402)

**5-103. Audits to be public record; publication.** The result of each audit above provided for shall be kept as a public record of the municipality, and shall be always subject to the inspection of each citizen or taxpayer of the city. A summary of the audit, prepared by the auditor, shall be published in at least one issue of a newspaper of general circulation published in the municipality. (1978 Code, § 6-403)

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<sup>1</sup>Charter references: §§ 16-16k.

## CHAPTER 2

### REAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

**5-201. When due and payable.**<sup>1</sup> Taxes levied by the municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1978 Code, § 6-101)

**5-202. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by § 16c of the charter as unofficially set out at the beginning of this code.<sup>3</sup> (1978 Code, § 6-102)

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<sup>1</sup>State law references

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

<sup>2</sup>Charter and state law reference

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

<sup>3</sup>Charter and state law references

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

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



## CHAPTER 3

### PRIVILEGE TAXES

#### SECTION

5-301. Tax levied.

5-302. License required.

**5-301. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by 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 of Sparta at the rates and in the manner prescribed by the act. (1978 Code, § 6-201)

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

Before issuing a license, the recorder shall fill up the same so that it will show the person or firm to whom it is issued and the amount of taxes and fees received or to be received on the same. (1978 Code, § 6-202)

## CHAPTER 4

### WHOLESALE BEER TAX

#### SECTION

5-401. To be collected.

**5-401. To be collected.** The recorder is hereby directed to take appropriate action to assure payment to the City of Sparta of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1978 Code, § 6-301)

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<sup>1</sup>State law reference

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

## CHAPTER 5

### PURCHASING PROCEDURES

#### SECTION

5-501. Applicable law.

5-502. Purchasing agent.

5-503. Duties and responsibilities of purchasing agent.

5-504. Purchasing procedures; administrative approval.

5-505. Requirements for public advertising and competitive bidding.

**5-501. Applicable law.** The Municipal Purchasing Law of 1983, as amended, at Tennessee Code Annotated, § 6-56-301, et seq., is hereby expressly made applicable to all purchases made by or for the City of Sparta. (1978 Code, § 1-1201)

**5-502. Purchasing agent.** The city administrator is hereby designated as purchasing agent for the City of Sparta. (1978 Code, § 1-1202, as replaced by Ord. #06-817, Nov. 2007)

**5-503. Duties and responsibilities of purchasing agent.** The purchasing agent, or such representative as may be designated by him, shall purchase materials, supplies, services and equipment, provide for leases and lease-purchases and dispose of surplus property in accordance with the provisions of the Municipal Purchasing Law of 1983, as amended, Tennessee Code Annotated, § 6-56-301, et seq., and in accordance with such purchasing procedures as may be approved by the board of mayor and aldermen and filed with the city recorder. (1978 Code, § 1-1203)

**5-504. Purchasing procedures; administrative approval.** The board of mayor and aldermen may adopt a written manual of policies and procedures to be followed by the purchasing agent in the making of procurements for the City of Sparta. Such manual may be adopted by resolution and filed with the city recorder. Such manual may prescribe procedures to be followed by all departments of the city, or may be restricted in applicability to certain departments thereof. Amendments may be made in any such manual, after its adoption, by resolution of the board of mayor and aldermen. (1978 Code, § 1-1204)

**5-505. Requirements for public advertisement and competitive bidding.** As authorized by the provisions of Tennessee Code Annotated, §§ 6-56-305 and 6-56-306, purchases in excess of four thousand dollars (\$4,000.00) shall not require public advertisement and competitive bidding. Purchases in excess of four thousand dollars (\$4,000.00) up to a maximum of ten

thousand dollars (\$10,000.00) shall require a minimum of three (3) competitive bids but shall not require public advertising. Purchases in excess of ten thousand dollars (\$10,000.00) shall require competitive bidding and public advertisement. (1978 Code, § 1-1206, as amended by Ord. #97-704, Nov. 1997, and replaced by Ord. #06-819, Dec. 2006)

## TITLE 6

### LAW ENFORCEMENT

#### CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

#### CHAPTER 1

### POLICE AND ARREST<sup>1</sup>

#### SECTION

- 6-101. Department created; composition.
- 6-102. Position of chief created; appointment.
- 6-103. Supervision of department.
- 6-104. Primary duties.
- 6-105. Secondary duties.
- 6-106. General duties of police.
- 6-107. When policemen to make arrests.
- 6-108. Policemen may require assistance.
- 6-109. Disposition of persons arrested.
- 6-110. Service of process.
- 6-111. Bailiff of recorder's court.

**6-101. Department created; composition.** There shall be a police department in the municipality, composed of a chief and such policemen and other personnel as the board of mayor and aldermen may provide. (1978 Code, § 1-401)

**6-102. Position of chief created; appointment.** There is hereby created the position of chief of police, who shall be appointed by the board of mayor and aldermen. (1978 Code, § 1-402)

**6-103. Supervision of department.** The chief of police shall have the control and supervision of the police department, subject to the orders of the mayor and board of mayor and aldermen. (1978 Code, § 1-403)

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<sup>1</sup>Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

**6-104. Primary duties.** Besides the duty to manage and operate the police department, it shall be among the primary duties of the chief of police to establish training courses to provide education and training to all members of the police department and to establish quotas for the Police School at Donelson. Training shall be in the following areas:

- (1) Proper methods of traffic control.
- (2) Methods for investigation of crimes and misdemeanors.
- (3) Proper patrol practices both on foot and in the car.
- (4) Rights of the police officer.
- (5) Rights of the citizen.
- (6) Courtesy in police work.
- (7) Pistol range practice.
- (8) Administrative procedures such as warrants, accident reports, traffic violation reports, police log, etc.
- (9) Radio procedures, keeping radio log, codes, proper language, etc.
- (10) Use of code of ordinances and other law references.
- (11) Conducting traffic during a funeral.

It shall also be among the primary duties of the chief of police to:

- (a) Establish and maintain a rotating shift schedule to maintain the utmost efficiency at all times.
- (b) Schedule all vacations so as to cause the least interruption with the police department.
- (c) To hold personal consultations with all officers, advising them of their deficiencies and how to correct them, and at the present time to assess their work.
- (d) Be responsible for proper manner of dress and general appearance to the public of all police officers.
- (e) Conduct a thorough investigation of charges or complaints against a member of the police force. If charges are unfounded, then the officer should be exonerated. If they are valid, the chief should recommend suspension or dismissal to the board of mayor and aldermen.
- (f) Establish and administer policy, procedures and regulations concerning wrecker service standards and to further insure the safe and efficient removal, storage and safekeeping of any and all vehicles being towed and placed into the custody of such wrecker service. (1978 Code, § 1-404)

**6-105. Secondary duties.** It shall be among the chief's secondary duties to formulate and maintain working agreements and plans with other agencies. The chief of police shall see to the following:

- (1) Disaster control plan-Coordinate with the sheriff, civil defense, fire department, Tennessee Highway Patrol, and any other agency deemed necessary.
- (2) Riot control plan-Coordinate as in disaster control plan.

- (3) Atomic attack-Coordinate with civil defense and any other agency required.
- (4) Sabotage-Coordinate with any agency required, such as FBI, TBI, THP, sheriff.
- (5) Educational program:
  - (a) Provide educational programs to city and county schools, mainly the elementary grades; provide education to the general public on police activities through news media and speeches. (1978 Code, § 1-405)

**6-106. General duties of police.** It shall be the duty of the chief of police and all policemen to enforce the ordinances of the municipality, the orders of the board of mayor and aldermen, and the laws of the state. (1978 Code, § 1-406)

**6-107. When policemen to make arrests**<sup>1</sup>. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1978 Code, § 1-407)

**6-108. Policemen may require assistance.** It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1978 Code, § 1-408)

**6-109. Disposition of persons arrested.** Unless otherwise authorized by law, when a person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. When the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1978 Code, § 1-409)

**6-110. Service of process.** It shall be the duty of the chief of police or any policeman designated by him to serve all process issued by the municipal judge. (1978 Code, § 1-410)

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<sup>1</sup>Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

**6-111. Bailiff of recorder's court.** It shall be the duty of the chief of police or some policeman designated by him to attend all sessions of the municipal court and to act as bailiff thereof. (1978 Code, § 1-411)



## CHAPTER 2

### WORKHOUSE

#### SECTION

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

**6-201. County workhouse to be used.** The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1978 Code, § 1-501)

**6-202. Inmates to be worked.** All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1978 Code, § 1-502)

**6-203. Compensation of inmates.** Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines assessed against him.<sup>1</sup> (1978 Code, § 1-503)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 40-24-104.

## **TITLE 7**

### **FIRE PROTECTION AND FIREWORKS<sup>1</sup>**

#### **CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE PREVENTION.
5. FIREWORKS.

#### **CHAPTER 1**

#### **FIRE DISTRICT**

#### **SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The fire limit boundaries shall be the area designated on the official zoning map as being the Commercial-C zoning district. (1978 Code, § 7-101)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

7-201. Fire code adopted.

7-202. Definitions.

7-203. Code amended.

7-204. Gasoline trucks.

7-205. New materials, processes, occupancies.

7-206. Violations, penalties.

**7-201. Fire code adopted.** (1) Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-509 and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, the International Fire Code, 2003 edition, as developed and published by International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the fire code.

(2) [Deleted.] (Ord. #95-682, Jan. 1996, modified, as amended by Ord. #05-796, Dec. 2005)

**7-202. Definitions.** (1) Wherever the word "municipality" is used in the fire prevention code, it shall be held to mean Sparta, Tennessee.

(2) Wherever the term "corporation counsel" is used in the fire prevention code, it shall be held to mean the attorney for the municipality. (1978 Code, § 7-202)

**7-203. Code amended.** The provisions of section 108 of the 2003 International Fire Code, Board of Appeals, are excluded from adoption under the provisions of this chapter. (Ord. #95-682, Jan. 1996, as amended by Ord. #05-796, Dec. 2005)

**7-204. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1978 Code, § 7-206)

**7-205. New materials, processes, occupancies.** The mayor, recorder and the fire chief shall act as a committee to determine and specify, after giving

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in said code. The fire chief shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons. (1978 Code, § 7-207)

**7-206. Violations, penalties.** Any person who shall violate any of the provisions of this chapter or the code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in the general penalty clause of the adopting ordinance. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (1978 Code, § 7-208)

## CHAPTER 3

### **FIRE DEPARTMENT<sup>1</sup>**

#### **SECTION**

- 7-301. Department created; composition.
- 7-302. Municipality not liable for injury, death of firemen.
- 7-303. Qualifications of chief; term, removal.
- 7-304. Assistant chief and company officers.
- 7-305. Certification, approval of applicants.
- 7-306. Special training for engineers, drivers.
- 7-307. Clothing for firemen.
- 7-308. Police powers of chief; authority to summon assistance.
- 7-309. Chief to be department head; supervisory duties.
- 7-310. Monthly drills required.
- 7-311. Monthly meetings required.
- 7-312. Missing meetings grounds for removal.
- 7-313. Chief to attend fires, direct department.
- 7-314. Suspension of members.
- 7-315. Chief to give notice when leaving municipality.
- 7-316. Duties of assistant chief.
- 7-317. General duties of captains.
- 7-318. Captains to instruct members.
- 7-319. Captains to inspect equipment.
- 7-320. Duties of lieutenants.
- 7-321. Duties of engineers, drivers.
- 7-322. Obedience to superiors required.
- 7-323. Members to assist in returning equipment to station.
- 7-324. Duty to respond to alarms.
- 7-325. Notice required when sick or desire to be excused.
- 7-326. Leaving fire prohibited.
- 7-327. Fires outside city; service charge.
- 7-328. Disposition of funds.
- 7-329. Obstructing hydrants.
- 7-330. Obstructing streets so as to interfere with fire department.
- 7-331. Chief to be assistant to state officer.

**7-301. Department created; composition.** There is hereby created a fire department for the municipality, to be composed of a chief and such subordinate officers men and women, both regular and volunteer, as the board

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<sup>1</sup>Municipal code reference

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

of mayor and aldermen may prescribe. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall remain the property of the City of Sparta. (1978 Code, § 7-301, modified)

**7-302. Municipality not liable for injury, death of firemen.** Members of the fire department become such at their own risk, and the municipality shall not be liable for the injury, illness or death of any fireman. (1978 Code, § 7-302)

**7-303. Qualifications of chief; term, removal.** The chief of the fire department shall be a man especially qualified for the duties incumbent upon him and shall hold office for an indefinite term and may be removed only for cause after a public hearing before the board of mayor and aldermen. (1978 Code, § 7-303)

**7-304. Assistant chief and company officers.** There shall be an assistant chief of the department and two officers for each fire company, whose promotion shall be based on an efficient record as firemen and properly certified by the chief to the board of mayor and aldermen for confirmation. (1978 Code, § 7-304)

**7-305. Certification, approval of applicants.** The names of all applicants for membership in the fire department shall be certified to the board of mayor and aldermen by the chief for final confirmation. (1978 Code, § 7-306)

**7-306. Special training for engineers, drivers.** Special training shall be required for such engineers and drivers as may be needed. (1978 Code, § 7-307)

**7-307. Clothing for firemen.** The municipality shall furnish to the members of the fire department rubber coats or other suitable clothing, fire helmets and rubber boots to be worn at fires, drills, and on duty only, said clothing to be and remain the property of the municipality and shall be ordered subject to the approval of the board of mayor and aldermen. (1978 Code, § 7-308)

**7-308. Police powers of chief; authority to summon assistance.** The chief shall be authorized to exercise police powers at times of fire and may summon to his assistance such additional help as he may deem necessary to control the fire. (1978 Code, § 7-309)

**7-309. Chief to be department head; supervisory duties.** The chief shall be at the head of the fire department, subject to the rules and regulations herein contained. He shall be held responsible for the good order and efficiency

of the department. It shall be his duty to examine into the condition of the fire station, apparatus, hoses and all other property of the department, once a week, and whenever directed by the board of mayor and aldermen. (1978 Code, § 7-310)

**7-310. Monthly drills required.** The chief shall drill the department monthly in the use of apparatus and equipment. (1978 Code, § 7-311)

**7-311. Monthly meetings required.** The fire department shall hold at least one meeting each month for discussing equipment, fire fighting methods, fire hazards, and other business pertaining to the department. (1978 Code, § 7-312)

**7-312. Missing meetings grounds for removal.** A member of the fire department missing three (3) successive regular meetings without permission from the chief shall be dropped from the roll. (1978 Code, § 7-313)

**7-313. Chief to attend fires, direct department.** The chief shall attend all fires, when not providentially hindered or excused, and direct the officers and firemen in matters pertaining to their duties. (1978 Code, § 7-315)

**7-314. Suspension of members.** The chief may in his discretion suspend members of the department from duty and shall report such action to the board of mayor and aldermen as soon as practicable thereafter. (1978 Code, § 7-316)

**7-315. Chief to give notice when leaving municipality.** The chief shall, on absenting himself from the municipality, first notify the assistant chief to take charge of the department. (1978 Code, § 7-317)

**7-316. Duties of assistant chief.** The assistant chief shall take charge of the department in the absence of the chief, and shall assume the same powers as devolve upon the chief. At all other times he shall perform such duties as the chief may direct. (1978 Code, § 7-318)

**7-317. General duties of captains.** The first captain to arrive at a fire shall exercise command until the arrival of a superior officer. They shall preserve the discipline of their respective companies and make monthly reports of the condition of apparatus, hoses and all other equipment under their control to the chief of the department, direct their companies at fires, and perform such other duties as the chief may direct. (1978 Code, § 7-319)

**7-318. Captains to instruct members.** The captains must instruct each member of their respective companies concerning his duties at fires and see

that each member knows the location, name, and use of each piece of equipment. (1978 Code, § 7-320)

**7-319. Captains to inspect equipment.** The captains must inspect the fire trucks and all other equipment once a week with the engineer or driver and see that all equipment is on the apparatus and in good order. (1978 Code, § 7-321)

**7-320. Duties of lieutenants.** A lieutenant shall, in the absence of his captain, exercise the same duties and have the same powers as devolve upon the captain. At all other times he shall perform such duties as the captain may direct. (1978 Code, § 7-322)

**7-321. Duties of engineers, drivers.** Engineers and drivers must examine the fire trucks daily after each run, and also check the oil, gas, water and tires, and keep a record of the time pumped and pressure on hydrants; and shall make a report thereof to their captains.

They must examine all fire hydrants in their districts and report all defects to the captain. (1978 Code, § 7-323)

**7-322. Obedience to superiors required.** All members of the fire department must obey the orders of their superior officers while on duty. (1978 Code, § 7-324)

**7-323. Members to assist in returning equipment to station.** All members must assist in returning all equipment to the fire station after a fire or drill unless excused by the officer in command. (1978 Code, § 7-325)

**7-324. Duty to respond to alarms.** All members of the fire department shall respond promptly, day or night, upon receipt of a fire alarm. (1978 Code, § 7-326)

**7-325. Notice required when sick or desire to be excused.** Members of the fire department shall notify the chief when they are sick or desire to be excused from duty. (1978 Code, § 7-327)

**7-326. Leaving fire prohibited.** No member will be permitted to leave a fire for any reason unless excused by the officer in charge. (1978 Code, § 7-328)

**7-327. Fires outside city; service charge.** The Sparta Fire Department shall attend no fires occurring outside the corporate limits of the City of Sparta except upon the payment of a charge of \$100.00 by the person or persons suffering such fire. This charge shall be made known to the person



calling for the services of the fire department, and the fire equipment may be dispatched upon the promise to pay and such promise shall be binding upon the promisor. (1978 Code, § 7-329)

**7-328. Disposition of funds.** Any and all funds collected by the City of Sparta for the use of the Sparta Fire Department in the fighting of any fires outside of the City of Sparta, Tennessee, shall be paid to the City of Sparta, Tennessee, and 50% of such money will be placed in the general fund of the City of Sparta and 50% of said fund shall be placed in that fund set up for the use and benefit of the Volunteer Fire Department. (1978 Code, § 7-330)

**7-329. Obstructing hydrants.** It shall be unlawful to place any obstruction within fifteen (15) feet of any fire hydrant within the municipality. (1978 Code, § 7-331)

**7-330. Obstructing streets so as to interfere with fire department.** It shall be unlawful to in any way obstruct the streets or alleys of the municipality so as to impede or interfere with the fire department when in the discharge of its duties. (1978 Code, § 7-332)

**7-331. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department 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 fire prevention commissioner in the execution of the provisions thereof. (1978 Code, § 7-333)

## CHAPTER 4

### FIRE PREVENTION

#### SECTION

7-401. Inspections required.

7-402. Right of entry.

7-403. Orders requiring correction of conditions authorized; service.

7-404. Compliance with order required; appeals.

7-405. Investigation, report of fires.

7-406. Record of fires.

7-407. Annual reports of fire chief.

**7-401. Inspections required.** The chief of the fire department or the codes enforcement officer or any inspector specially designated thereto shall inspect, as often as may be necessary, but not less than four (4) times a year, all specially hazardous manufacturing processes, storage or installations of gases, chemicals, oils, explosives and flammable materials, all interior fire alarms and automatic sprinkler systems, and such other hazards or appliances as the chief of the fire department or codes enforcement officer shall designate, and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same and for safeguarding of life and property from fire.

It shall be the duty of the chief of the fire department or the codes enforcement officer to inspect, or cause to be inspected, as often as may be necessary, but not less than twice a year in outlying districts and six (6) times a year in the established fire limits of the municipality, all buildings and premises except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of the provisions or intent of this title or the code hereby adopted. (1978 Code, § 7-401)

**7-402. Right of entry.** The codes enforcement officer and the chief of the fire department and their duly authorized inspectors shall have the right to enter and inspect any premises at any reasonable time to enforce the provisions of this title. (1978 Code, § 7-402)

**7-403. Orders requiring correction of conditions authorized; service.** (1) The chief of the fire department or the codes enforcement officer, or any inspector, upon complaint of any person, or whenever he shall deem it necessary, shall inspect all buildings and premises within his jurisdiction.

(2) Whenever any of said officers shall find any building or other structure which, for want of repairs, lack of sufficient fire escapes, automatic or other fire alarm apparatus or fire extinguishing equipment or by reason of age

or dilapidated condition or from any other cause, is especially liable to fire, and which is so situated as to endanger other property or the occupants thereof, and whenever such officer shall find in any building combustible or explosive matter or flammable conditions dangerous to the safety of such buildings or the occupants thereof, he or they shall order such dangerous conditions remedied, such materials removed or such buildings repaired or razed.

(3) The service of such orders may be made upon the occupant of the premises to whom it is directed, either by delivering a copy of same to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the said premises. Whenever it may be necessary to serve such an order upon the owner of premises such order may be served either by delivering to and leaving with the said person a copy of the said order, or, if such owner is absent from the jurisdiction of the officer making the order, by mailing such copy to the owner's last known post office address. (1978 Code, § 7-403)

**7-404. Compliance with order required; appeals.** (1) Any such order shall forthwith be complied with by the owner or occupant of such premises or building. Provided that the owner or occupant may within twenty-four (24) hours appeal to the mayor, who shall, within five (5) days review such order and file his decision, thereon, and unless by his authority the order is revoked or modified it shall remain in full force and be complied with within the time fixed in said order or decision of the mayor.

(2) Any such owner or occupant may, within five (5) days after the making or affirming of any such order by the mayor, file his petition with the municipal court, praying a review of such order and it shall be the duty of such court to hear the same within not less than five (5) days nor more than ten (10) days from the time the petition is filed, and to make such order in the premises as right and justice may require and such decision shall be final. Such parties so appealing to the municipal court shall file with said court within two (2) days a bond in an amount to be fixed by the court, to be approved by the court, conditioned to pay all the costs of such appeal in case such appellant fails to sustain his appeal or the same is dismissed for any cause. (1978 Code, § 7-404)

**7-405. Investigation, report of fires.** The fire chief or his delegate shall investigate the cause, origin and circumstances of every fire occurring in the municipality by which property has been destroyed or damaged and, so far as possible shall determine whether the fire is the result of carelessness or design. Such investigations shall be begun immediately upon the occurrence of such a fire by the inspector assigned thereto, and if it appears to the officer making such an investigation that such fire is of suspicious origin, the fire chief shall be immediately notified of the facts; he shall take charge immediately of the physical evidence, shall notify the proper authorities designated by law to

pursue the investigation of such matters, and shall further cooperate with the state authorities in the collection of evidence and in the prosecution of the case. Every fire shall be reported in writing to the fire department within two (2) days after the occurrence of the same, by the officer in whose jurisdiction such a fire has occurred. Such report shall be in such form as shall be prescribed by the fire chief and shall contain a statement of all facts relating to the cause, origin and circumstances of such fire, and extent of the damage thereof, and the insurance upon such property, and such other information as may be required. (1978 Code, § 7-405)

**7-406. Record of fires.** The chief of the fire department shall keep, in the office of the fire department, a record of all fires and of the facts concerning same, including statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance, and if so, in what amount. Such record shall be made daily from the reports made by the inspectors under the provisions of this chapter. All such records shall be public. (1978 Code, § 7-406)

**7-407. Annual reports of fire chief.** The annual report of the fire chief shall be made on or before the first day of July and transmitted to the mayor; it shall contain all proceedings under this chapter, with such statistics as the fire chief may wish to include therein. The fire chief shall also recommend any amendments or changes in city ordinances which, in his judgment, shall be desirable. (1978 Code, § 7-407)

## CHAPTER 5

### FIREWORKS

#### SECTION

7-501. Definition.

7-502. Possession, use, sale prohibited.

7-503. Exceptions.

**7-501. Definition.** The term "pyrotechnics," whenever used in this chapter shall be held to mean any sparkler, squib, rocket, firecracker, roman candle, signal lights, fireworks, or other device or composition used to obtain visible or audible pyrotechnic display. (1978 Code, § 7-501)

**7-502. Possession, use, sale prohibited.** It shall be unlawful for any person to have, keep, store, use, manufacture, offer to sell, handle, or transport any pyrotechnics within the municipality except as herein provided, it being the intention of this section to prohibit the sale of, distribution of, or discharge of pyrotechnics of any kind or description whatsoever within the municipality. (1978 Code, § 7-502)

**7-503. Exceptions.** Nothing contained in this chapter shall be held to apply:

(1) To the possession or use of signaling devices for current daily consumption by railroads, trucks or vessels requiring them.

(2) To pyrotechnic display of fireworks in public parks or other open places, where a permit for such display has been issued by the mayor.

(3) To the possession, sale or use of normal stacks of flashlight compositions by photographers or dealers in photographic supplies. (1978 Code, § 7-503)

## TITLE 8

### ALCOHOLIC BEVERAGES<sup>1</sup>

#### CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

#### CHAPTER 1

### INTOXICATING LIQUORS<sup>2</sup>

#### SECTION

- 8-101. Definition of alcoholic beverages.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the city recorder.
- 8-105. Advertisement of alcoholic beverages.

**8-101. Definition of alcoholic beverages.** As used in this chapter, unless the context indicates otherwise: Alcoholic beverages means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (1978 Code, § 2-101, as replaced by Ord. #11-855, Jan. 2011)

**8-102. Consumption of alcoholic beverages on premises.** Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Sparta, Tennessee. It is the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Sparta, Tennessee, the same

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<sup>1</sup>State law reference  
Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference  
Tennessee Code Annotated, title 39, chapter 17.

as if said code sections were copied herein verbatim. (as added by Ord. #11-855, Jan. 2011)

**8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Sparta General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Sparta alcoholic beverages for consumption on the premises where sold. (as added by Ord. #11-855, Jan. 2011)

**8-104. Annual privilege tax to be paid to the city recorder.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Sparta shall remit annually to the city recorder the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #11-855, Jan. 2011)

**8-105. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #11-855, Jan. 2011)

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Sale of beer lawful; privilege.
- 8-202. Beer board created; duties and powers.
- 8-203. Mayor to preside; right to vote.
- 8-204. Oath of board members.
- 8-205. Quorum for board.
- 8-206. Recorder to be secretary of board.
- 8-207. Records of secretary.
- 8-208. Inspectors; enforcement.
- 8-209. Permit required for engaging in beer business – privilege tax.
- 8-210. Permits for retail sale; types designated.
- 8-210 (a). Restrictions upon issuance of on-premises beer permits.
- 8-210 (b). Restrictions upon issuance of off-premises beer permits.
- 8-210 (c). Public consumption of beer prohibited.
- 8-210 (d). Restrictions pertaining to intoxicating persons.
- 8-211. Privilege tax.
- 8-212. Verification of application; effect of false statement.
- 8-213. Suspension or revocation.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Investigative powers.
- 8-216. Show cause hearing; effect of revocation.
- 8-217. Posting of permit.
- 8-218. Permits not transferrable.
- 8-219. Unlawful for manufacturer or distributor to sell to the unlicensed.
- 8-220. Sale to minors unlawful; employers regulated.
- 8-221. Procurement of alcoholic beverages for minor a misdemeanor.
- 8-222. Misrepresentation of age by minor.
- 8-223. Days and hours of operation.
- 8-224. Sale of beer on premises in direct connection with sleeping quarters prohibited.
- 8-225. Employment or interest of city employees in beer places prohibited.
- 8-226. Advertising signs and displays on premises.
- 8-227. Outside advertising.
- 8-228. Inspection and investigation; effect of refusal.

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<sup>1</sup>State law reference

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



- 8-229. Applicant must agree to comply with all applicable laws.
- 8-230. Application to contain revocation agreement.
- 8-231. Zoning.
- 8-232. Beer board to approve or disapprove permits; recorder to issue license.
- 8-233. Separate permit and license required for each location.
- 8-234. Penalties.
- 8-235. Possession of opened containers.
- 8-236. Littering with alcoholic beverage containers unlawful.
- 8-237. Issuance and retention of permits.
- 8-238. Confiscation and sale of unlicensed beer.
- 8-239. Allowing disorderly conduct.
- 8-240. Exception; on-premises consumption permit holders.
- 8-241. Exception; persons sixty (60) years of age or greater.
- 8-242. Violation and penalty.

**8-201. Sale of beer lawful; privilege.** It shall hereafter be lawful and is hereby declared to be a privilege to sell, store for resale, or distribute beer of alcoholic content of not more than five percent (5%) by weight, or other beverage of like alcoholic content, within the corporate limits of the City of Sparta, Tennessee, subject to all of the regulations, limitations and restrictions hereinafter provided. (1978 Code, § 2-201, as replaced by Ord. #11-857, May 2011)

**8-202. Beer board created; duties and powers.** There is hereby created a board, which shall be known and designated as the "beer board," hereinafter referred to in this chapter as the "board." Such board shall be composed of the members of the Board of Mayor and Aldermen of the City of Sparta, Tennessee, who shall vote with other members thereof. It shall be the duty of the board to regulate and supervise the issuance of permits to store more than one (1) case, distribute and sell beer and other beverages of an alcoholic content of not in excess of five percent (5%) by weight to the persons and in the manner provided herein.

It is hereby declared that the sale of beer in the city is a privilege, and such board is hereby empowered, with complete discretion, to issue, revoke and suspend all licenses to sell beer in the city, and to perform such other duties and to have such other powers and authority as provided in this chapter. (1978 Code, § 2-202, as replaced by Ord. #11-857, May 2011)

**8-203. Mayor to preside; right to vote.** The mayor shall preside over all meetings of the beer board and shall have one (1) vote. (1978 Code, § 2-203, as replaced by Ord. #11-857, May 2011)

**8-204. Oath of board members.** The members of the beer board will be required to subscribe to a written oath of office to carry out and enforce

Tennessee Code Annotated, title 57, ch. 5, as well as the terms and conditions of this chapter. (1978 Code, § 2-204, as replaced by Ord. #11-857, May 2011)

**8-205. Quorum for board.** A majority of the members of the beer board shall constitute a quorum for any purpose. (1978 Code, § 2-205, as replaced by Ord. #11-857, May 2011)

**8-206. Recorder to be secretary of board.** The recorder of the municipality shall be ex-officio secretary of the beer board, but shall have no vote in its proceedings. (1978 Code, § 2-206, as replaced by Ord. #11-857, May 2011)

**8-207. Records of secretary.** It shall be the duty of the secretary to keep a record of all the proceedings of the board and to keep on file all original applications, as well as a duplicate of each permit issued by the board. (1978 Code, § 2-207, as replaced by Ord. #11-857, May 2011)

**8-208. Inspectors; enforcement.** The beer board, acting for the city, may fix the compensation of inspectors for the purpose of enforcing this chapter and other laws, ordinances and rules regulating the distribution, possession, storage and sale of beer, or other beverages of like alcoholic content at wholesale or retail. Such inspector, if appointed, shall hold office by and in the discretion of the board. Members of the police department are fully authorized to enforce all provisions of this chapter at the option of the board in lieu of inspectors as hereinabove provided. (1978 Code, § 2-208, as replaced by Ord. #11-857, May 2011)

**8-209. Permit required for engaging in beer business – privilege tax.** (1) It shall be unlawful for any person, firm or corporation, joint stock company, syndicate, or association (all of which shall hereinafter in this chapter be designated as "person") to sell beer or to store beer for sale, possess more than one (1) case of beer, or distribute beer by weight or otherwise, 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 shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Sparta. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter.

(2) Permits shall be issued for an indefinite period of time except that the Sparta Beer Board may issue a permit for a shorter or probationary period if, in its discretion, it deems such action proper and reasonable under the circumstances.

(3) There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 2011, and on each successive January 1, to the City of Sparta, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date, all as provided in Tennessee Code Annotated, § 57-5-104.

(4) No permit now in force or hereafter issued shall be good or valid except at the location described in the application upon which it is based; nor shall any such permit be transferrable. If the permit holder is a corporation or limited liability company, a change in ownership requiring the issue of a new permit shall occur when control of at least fifty percent (50%) of the stock of the corporation or limited liability company is transferred to a new owner.

(5) The applicant or a representative may be required to appear in person before the board for questioning about any and all questions related to the qualifications required under this chapter and amendments thereto.

(6) No permit may be granted hereunder to any establishment when any person, firm or corporation having at least a five percent (5%) ownership in the establishment has been convicted within ten (10) years prior to the application for a permit hereunder of a violation of the laws governing the possession, sale or manufacture of alcoholic beverages or of any felony or crime involving moral turpitude or has had a beer permit revoked or suspended within the past ten (10) years. No person employed by any beer business shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture and transportation of alcoholic beverages or any felony or crime involving moral turpitude within the last ten (10) years.

(7) Every permit and license issued pursuant to this chapter shall be displayed in a conspicuous place in the place of business named and described in the permit. A permit shall be valid only for a single location and cannot be transferred to another location except where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in the owner's discretion operate some or all of such businesses pursuant to the same permit. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business.

(8) No permit or license shall be issued pursuant to this chapter unless the applicant establishes to the satisfaction of the board that he has obtained all permits and paid all required fees and privilege taxes and has met all of the requirements of the laws of the State of Tennessee and the United States.

(9) The holder of a permit issued pursuant to this chapter desiring to voluntarily surrender the permit shall tender said permit to the beer board. The beer board shall take such action upon the offer to surrender as it may

determine necessary and advisable under the circumstances, and it shall have the absolute authority to refuse to accept the surrender of any permit.

(10) Upon notice by the Sparta Chief of Police or agent thereof that the city has reasonable cause to conclude that a permit holder is ineligible to hold a permit and/or falsified information in order to obtain a permit, the permit will be immediately temporarily suspended. The permit holder may request a hearing before the board within seven (7) working days of the suspension.

(11) If any false or misleading information is found in any material submitted to the board by or on behalf of an applicant for a beer permit, the application shall be cancelled and the applicant and any person who submitted false or misleading information shall not be permitted to apply for a beer permit for a period of ten (10) years from the date of the cancellation of the application.

(12) If any false or misleading information is found in any material submitted to the beer board by or on behalf of a holder of a beer permit, the permit shall be revoked immediately by the beer board and the permit holder and any person who submitted false or misleading information shall not be permitted to apply for a beer permit for a period of ten (10) years from the date of the revocation of the permit.

(13) A permit holder must return to the beer board all permits issued to the permit holder by the beer board within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, that notwithstanding the failure to return a beer permit, the permit shall expire on the termination of the business, change in ownership, relocation of the business or change in the business's name. (1978 Code, § 2-209, as replaced by Ord. #11-857, May 2011)

**8-210. Permits for retail sale; types designated.** 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.

(2) Off-premise permits. Off-premise permits shall be issued for the sale of beer only for consumption off the business premises in accordance with the provisions of this chapter.

A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one (1) permit if otherwise permitted by law and this chapter. (1978 Code, § 2-210, as repealed by Ord. #11-856, Jan. 2011, and replaced by Ord. #11-857, May 2011)

**8-210 (a). Restrictions upon issuance of on-premises beer permits.** Permits for the on-premise sale of beer shall be issued according to the following classes and limitations, except that this provision shall not be applicable to the renewal of any permit existing and outstanding as of May 5, 2011.

(1) On-premise where beer is sold for consumption at a restaurant. Restaurant shall mean a business establishment whose primary business is the sale of prepared food to be consumed on the premises. A restaurant as so defined to be a public place where meals are actually and regularly served, and such place being provided with adequate and sanitary kitchen and dining room equipment, serving at least two (2) meals per day, five (5) days a week, and the serving of such meals shall be the principal business conducted. There shall be no limitation on the number of beer permits issued to restaurants.

(2) On-premise where beer is sold for consumption at a 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. There shall not be more than a total of twelve (12) taverns located within the corporate limits of the City of Sparta.

(3) On-premise where beer is sold in the rooms of regularly conducted hotels and motels as the same are defined under Tennessee state law regulating beer permits. Beer sold under such permit shall be dispensed to adult guests only through locked, in-room units. No person under the age of twenty-one (21) shall be issued or supplied with a key by any hotel or motel for such units. (as added by Ord. #11-857, May 2011)

**8-210 (b). Restrictions upon issuance of off-premises beer permits.** Permits for the off-premise sale of beer shall be issued according to the following classes and limitations, except that this provision shall not be applicable to the renewal of any permit existing and outstanding as of May 5, 2011.

(1) Off-premise where beer is sold at a grocery (food store). Grocery shall mean a business establishment whose primary business is the retail sale of food merchandise and household items. Beer shall not be sold for consumption on the premises of grocery stores. There shall be no limitation on the number of beer permits issued to grocery stores.

(2) Off-premise where beer is sold at a convenience store or market. Convenience store or market shall mean a business establishment whose business is the retail sale of gasoline and petroleum products and food merchandise, household supplies and sundries. Beer shall not be sold for consumption on the premises of convenient stores or markets. There shall be no limitation on the number of beer permits issued to convenient stores or markets.

(3) Off-premise where beer is sold at a drug store. Drug store shall mean a business establishment whose primary business is the retail sale of pharmaceuticals, food merchandise, household items, and sundries. Beer shall not be sold for consumption on the premises of drug stores. There shall be no limitation on the number of beer permits issued to drug stores. (as added by Ord. #11-857, May 2011)

**8-210 (c). Public consumption of beer prohibited.** (1) None of the beverages regulated by this chapter shall be consumed on any public street, alley, boulevard, bridge, nor upon the grounds of any cemetery or public school, nor upon any park or public grounds nor upon any vacant lot within two hundred feet (200') of any public street, highway, avenue, or other public place.

(2) **Selling or otherwise dispensing beer to persons in motor vehicles.** The beverages regulated by this chapter shall not be sold, given away, served, or otherwise dispensed to persons in automobiles or other motor vehicles except where the beverages are sold in package form. (as added by Ord. #11-857, May 2011)

**8-210 (d). Restrictions pertaining to intoxicated persons.** None of the beverages regulated by this chapter shall be sold or given away or otherwise dispensed or served to any person in a drunken condition; nor shall any person in such condition be permitted or allowed to consume any such beverages upon or in any premises or place of business where such beverages are sold, dispensed, served or distributed. No person holding a permit under and dealing in or handling the beverages regulated by this chapter shall permit or allow upon his premises or in his place of business any person who is under the influence of any intoxicant whatsoever. It shall be the duty of any person holding a permit under and dealing in and handling the beverages regulated by this chapter to promptly notify the police officers when any person under the influence of any intoxicant whatsoever enters the premises or place of business of the person holding such permit. No owner, co-owner, operator, proprietor, employee or servant of a place of business holding and/or exercising a permit issued pursuant to this chapter shall drink or be under the influence of any of the beverages regulated by this chapter or any other intoxicant while in or working at any such place of business or while upon any such premises. (as added by Ord. #11-857, May 2011)

**8-211. Privilege tax.** There is hereby imposed on the business of selling, distributing or storing beer a privilege tax of one hundred dollars (\$100.00). Any person engaged in the sale, distribution, or storage of beer shall remit the tax on January 1 to the City of Sparta, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1978 Code, § 2-211, modified, as replaced by Ord. #11-857, May 2011)

**8-212. Verification of application; effect of false statement.** This application shall be verified by the affidavit of the applicant, made before a notary public or the city recorder, and if any false statement is made in any part of such application the permit or license granted or issued to the applicant shall be revoked by the beer board. The board shall appoint a committee consisting

of the police chief, city administrator and codes enforcement officer to investigate permit applications and within the second meeting of the board after the application is filed, to make a report of its investigation with its recommendations to the board. (1978 Code, § 2-212, as replaced by Ord. #11-857, May 2011)

**8-213. Suspension or revocation.** (1) All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter. A permit holder under indictment for violation of the law against prohibitions, sale, manufacture, or transportation of intoxicating liquors, gambling, drug laws, or of any crime involving moral turpitude may have his permit suspended by said beer board pending the outcome of such indictment.

(2) 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.

(3) **Civil penalty in lieu of revocation or suspension.** (a) 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.

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

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

(4) 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. (1978 Code, § 2-213, as replaced by Ord. #11-857, May 2011)

**8-214. Civil penalty in lieu of suspension.** (1) The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a city 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. 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.

(2) 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. (Tennessee Code Annotated, § 57-5-602, et seq.)

(3) Payment of the civil penalty in lieu of 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. (1978 Code, § 2-213(A), modified, as replaced by Ord. #11-857, May 2011)

**8-215. Investigative powers.** The board created by this chapter is vested with full and complete power to investigate charges against any permit holder to appear and show cause why their permit should not be suspended or revoked for the violations of the provisions of this chapter or the provisions of the state beer act. The city recorder and the beer board are hereby authorized to subpoena persons and records, and to administer oaths and hear testimony



in the enforcement of this chapter. (1978 Code, § 2-214, as replaced by Ord. #11-857, May 2011)

**8-216. Show cause hearing; effect of revocation.** Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon permittee either by registered mail or by a member of the police department of the City of Sparta. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the hearing the board shall publicly hear the evidence both in support of the charge and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject only to review by the court as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. (1978 Code, § 2-215, as replaced by Ord. #11-857, May 2011)

**8-217. Posting of permit.** The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1978 Code, § 2-216, as replaced by Ord. #11-857, May 2011)

**8-218. Permits not transferrable.** Permits issued under the provisions of this chapter are not transferrable, either as to location or to successor by purchase, or otherwise of the business for which the permit was issued, and in either case, a new permit is required in the manner provided herein. (1978 Code, § 2-217, as replaced by Ord. #11-857, May 2011)

**8-219. Unlawful for manufacturer or distributor to sell to the unlicensed.** No manufacturer or distributor of beer or other beverages of like alcoholic content shall sell to anyone except a licensed dealer holding a currently valid permit issued by the board. (1978 Code, § 2-218, as replaced by Ord. #11-857, May 2011)

**8-220. Sale to minors unlawful; employers regulated.** (1) No person engaging in the business regulated under this chapter shall make or permit to be made any sales or gifts to minors, or employ any person in the storage, sale, or distribution of any of such beverages except citizens of the United States.

Neither the person engaging in such business nor any person employed by him shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor, or any crime involving moral turpitude within the last ten (10) years. For purposes of this chapter, the term "minor" is defined as any person not legally entitled to purchase intoxicating liquors as defined by the applicable sections of the Tennessee Code.

(2) No sales, gifts, or distribution of beer shall be made or permitted to be made to persons under twenty-one (21) years of age. No person under the age of eighteen (18) years shall be permitted to serve beer for on-premises consumption. No person under the age of eighteen (18) years shall be permitted to sell, handle, key in to a cash register, or scan into a cash register beer for off-premises consumption. No person under the age of eighteen (18) years of age shall check identification of those attempting to purchase beer for off-premise consumption. Persons under twenty-one (21) years of age shall not be permitted to loaf or loiter in taverns or package stores. The burden of ascertaining the age of customers shall be upon the holder of the permit. (1978 Code, § 2-219, as amended by Ord. #03-765, Feb. 2003, as replaced by Ord. #11-857, May 2011)

**8-221. Procurement of alcoholic beverages for minor a misdemeanor.** It is hereby declared to be a misdemeanor, punishable as any other misdemeanor, for any adult person to buy or procure beer or other alcoholic beverage for or on behalf of any minor, and to deliver the same to said minor or any other minor. (1978 Code, § 2-220, as replaced by Ord. #11-857, May 2011)

**8-222. Misrepresentation of age by minor.** It shall be unlawful, and a misdemeanor, for any person under eighteen (18) years of age knowingly to misrepresent his age in order to obtain or purchase beer or remain in a location where minors are not allowed. (1978 Code, § 2-221, as replaced by Ord. #11-857, May 2011)

**8-223. Days and hours of operation.** Hours and days of sale, etc., regulated. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) by weight within the corporate limits of Sparta, Tennessee between the hours of 3:00 A.M. and 6:00 A.M. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday and between the hours of 3:00 A.M. and 10:00 A.M. on Sunday. No such beverages shall be consumed or opened for consumption on or about any premises where beer or other alcoholic beverages with an alcoholic content not

exceeding five percent (5%) of weight are sold within the corporate limits of Sparta, Tennessee in either bottle, glass, or other container after 3:15 A.M. (1978 Code, § 2-222, as repealed by Ord. #11-854, Jan. 2011, and replaced by Ord. #11-857, May 2011)

**8-224. Sale of beer on premises in direct connection with sleeping quarters prohibited.** Except as hereinafter provided, no beer shall be sold on premises in direct connection with which sleeping quarters are provided. Within the meaning of this section, sleeping quarters shall be considered as being in direct connection with the premises upon which the sale is made when the sleeping quarters are in the same room, or when any interior passageway, door, hall, stairway or other interior connection or a combination thereof, is available and is used in going to or from the place where such sale is made to such sleeping quarters. (1978 Code, § 2-223, as replaced by Ord. #11-857, May 2011)

**8-225. Employment or interest of city employees in beer places prohibited.** It is hereby declared to be unlawful for any member of the police or fire departments of the City of Sparta, without a special permit from the board, to work at any place where beer is dispensed under this chapter, or for any such city employee to have any interest, direct or indirect, in such business. (1978 Code, § 2-224, as replaced by Ord. #11-857, May 2011)

**8-226. Advertising signs and displays on premises.** No person authorized to sell beer at retail may erect or maintain any outside signs, advertising or displays located upon or attached to such buildings or premises for the purpose of advertising beer or beverages of like alcoholic content; provided, however, that each retail permittee is hereby allowed and permitted to erect and maintain one (1) sign on the outside of such building or premises, such sign bearing only the word "beer" and not exceeding the maximum dimension of thirty-six inches by eight inches (36" x 8"); provided further, however, that this provision shall not be construed to prohibit the erection and maintenance of advertising signs and displays placed or located within or inside the building and premises on which such beverages are sold at retail. (1978 Code, § 2-225, as replaced by Ord. #11-857, May 2011)

**8-227. Outside advertising.** It shall be unlawful for any person, firm, or corporation to place or maintain any outdoor advertisement of beer upon any sign, billboard, post, building, or other place within the corporate limits of the City of Sparta. (1978 Code, § 2-226, as replaced by Ord. #11-857, May 2011)

**8-228. Inspection and investigation; effect of refusal.** The place of business and premises of the holder of any license for the distribution or sale of beverages regulated in this chapter shall be open to inspection and investigation by inspectors or police officers designated under § 8-208 hereof, at any time such

place is open for business, and any refusal by the holder of such license, or by his agents, servants or employees to permit any such officer to enter upon, inspect and investigate any house, building or room wherein business authorized by any permit issued by the beer board created in § 8-202 is conducted, within the hours that such house, building or room is open for business, shall be unlawful and a misdemeanor. The conviction of such holder, or of any agent, servant or employee of such holder, of a violation of the provisions of this section shall also be a sufficient ground, reason and cause for the revocation of the permit and license of such holder. (1978 Code, § 2-227, as replaced by Ord. #11-857, May 2011)

**8-229. Applicant must agree to comply with all applicable laws.**

Every applicant for a beer permit and license must agree in the application for a permit to comply with all laws of the State of Tennessee, the United States, and all ordinances of the City of Sparta regulating the handling of beer. (1978 Code, § 2-228, as replaced by Ord. #11-857, May 2011)

**8-230. Application to contain revocation agreement.**

All applications for a beer permit and license shall contain an agreement that the beer board may revoke or suspend the permit and license issued under the provisions of this chapter. (1978 Code, § 2-229, as replaced by Ord. #11-857, May 2011)

**8-231. Zoning.**

No beer permit or license shall be issued for the conduct of business at any point or place in the corporate limits of the City of Sparta unless such place is zoned for, or authorized to be used for, commercial or other purposes, corresponding to the character of the business contemplated herein. (1978 Code, § 2-230, as replaced by Ord. #11-857, May 2011)

**8-232. Beer board to approve or disapprove permits; recorder to issue license.** Beer permits shall be approved or disapproved by the beer board created in § 8-202, and if approved, a license shall be issued by the city recorder in a manner similar to the issuance of other licenses. (1978 Code, § 2-231, as replaced by Ord. #11-857, May 2011)

**8-233. Separate permit and license required for each location.**

A separate permit and license shall be obtained for each location at which and from which any applicant is to distribute or sell legalized beer. (1978 Code, § 2-232, as replaced by Ord. #11-857, May 2011)

**8-234. Penalties.**

In addition to other penalties provided in this chapter, any person violating the provisions of this chapter shall be guilty of a misdemeanor, and may be tried in city court and cited to the beer board and may have his permit suspended or revoked. A citation before the beer board and

suspension or revocation of permit in addition to trial and conviction of the misdemeanor shall not constitute double jeopardy. (1978 Code, § 2-235, as replaced by Ord. #11-857, May 2011)

**8-235. Possession of opened containers.** In order that there may be no public consumption of beverages regulated hereby, and that such may not be consumed in automobiles or other conveyances, either public or private, it is hereby declared to be unlawful and a misdemeanor for any person to possess in any public place, or in any automobile or other conveyance upon the streets and alleys of the City of Sparta, any opened container of any such beverage. (1978 Code, § 2-236, as replaced by Ord. #11-857, May 2011)

**8-236. Littering with alcoholic beverage containers unlawful.** It shall be unlawful for any person to place or abandon, upon the public streets, parks or ways within the City of Sparta, or upon private properties immediately adjacent to and in clear view of any public park, street or way, any carton, can, bottle, cup or other container used for dispensing beverages regulated hereby. (1978 Code, § 2-237, as replaced by Ord. #11-857, May 2011)

**8-237. Issuance and retention of permits.** In order to protect the general welfare and morals of the citizens of the City of Sparta, Tennessee, permits issued hereunder shall only be issued to grocery stores, convenience markets, supermarkets, pharmacies, taverns and restaurants legitimately operated and properly licensed in accordance with any and all ordinances, statutes, laws and regulations of the City of Sparta, White County, the State of Tennessee, or the United States of America. In order to qualify for and to retain a license or permit for the sale of beer, grocery stores, convenience markets, supermarkets, and pharmacies must further meet the following criteria:

(1) Have and maintain an inventory in the minimum amount of three thousand five hundred dollars (\$3,500.00) at wholesale value, exclusive of tobacco, gasoline, and beer.

(2) Be operated at all times in a lawful manner, with no loitering, breaches of the peace, lewd or indecent behavior, altercations, carrying of weapons, other violations of any ordinance or statute, or public nuisances of any kind permitted on or about the premises.

(3) Meet at the time of the application and at all times thereafter all of the criteria set out in the application and the other ordinances of this section. (1978 Code, § 2-238, as replaced by Ord. #11-857, May 2011)

**8-238. Confiscation and sale of unlicensed beer.** Whenever any person shall be found in possession of more than one (1) case of beer without a license, the law enforcement officers of the city are hereby empowered to confiscate all of such beer in possession of such party except one (1) case, and within a reasonable time shall advertise such beer for sale by posted notice for

a period of ten (10) days at the city hall. Such notice shall contain the amount of beer sold, the terms of the sale, the day and hour of the sale and the place of the sale. At the time so advertised in the posted notice, the city recorder shall auction such beer at the place and time set out in the notice, to be sold to the highest and best bidder. In no event shall such beer be sold to any party who does not possess the necessary permit and license. All money derived from such sale shall be placed in the general fund of the city, to be used as such moneys are used in the budget. (1978 Code, § 2-239, as replaced by Ord. #11-857, May 2011)

**8-239. Allowing disorderly conduct.** It shall be unlawful for the permittee hereunder, his agent or employee, to cause or allow on the premises any disorderly conduct. (1978 Code, § 2-240, as replaced by Ord. #11-857, May 2011)

**8-240. Exception; on-premises consumption permit holders.** Any holder of a permit allowing on-premises consumption of beer in the city limits shall be permitted to serve beer to a person without seeing identification provided in this chapter if in the discretion of a manager on the premises a person wishing to purchase such beverages beyond a reasonable doubt is twenty-one (21) years of age or older. (as added by Ord. #11-857, May 2011)

**8-241. Exception; persons sixty (60) years of age or greater.** Any person showing state issued identification proving that their age is sixty (60) years of age or greater shall not be required to show a photo identification but instead shall be allowed to purchase beer based on the state issued identification which does not include a photograph. (as added by Ord. #11-857, May 2011)

**8-242. Violation and penalty.** Violation of any part of this chapter alone shall not subject a permit holder to revocation of his or her beer permit as issued by the City of Sparta. Penalties for violation of this chapter shall be as follows:

First offense: Written warning to permit holder and person who failed to require presentation of identification as set forth herein, if appropriate.

Second offense: Up to two thousand five hundred dollars (\$2,500.00) fine by beer board to permit holder and up to fifty dollar (\$50.00) fine in city court for person who failed to require presentation of identification as set forth herein, as appropriate.

Third offense: Discretion of beer board and city court as appropriate. (as added by Ord. #11-857, May 2011)

## TITLE 9

### BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. TAXICABS.
4. PLUMBERS AND GAS PIPE FITTERS.
5. ELECTRICIANS.
6. ARCADES, AMUSEMENT HALLS, GAME ROOMS, ETC.
7. FLEA MARKETS.
8. CABLE TELEVISION.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 9-101. Statutes adopted.
- 9-102. Recorder designated commissioners.

**9-101. Statutes adopted.** Tennessee Code Annotated, §§ 6-55-401 to 6-55-413 inclusive, are hereby adopted so as to be applicable to all sales which are regulated by said sections and which sales are conducted within the corporate limits of the municipality. (1978 Code, § 5-101)

**9-102. Recorder designated commissioner.** For the purpose of complying with the terms and conditions of said sections the recorder is hereby designated as the proper person to perform all the duties and obligations placed upon the "commissioner" according to the terms of said Tennessee Code Annotated, §§ 6-55-401 to 6-55-413 inclusive, as authorized by said code sections. (1978 Code, § 5-102)

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<sup>1</sup>Municipal code references

Building, plumbing, wiring and housing regulations: title 12.  
Junkyards: title 13.  
Liquor and beer regulations: title 8.  
Noise reductions: title 11.  
Zoning: title 14.

## CHAPTER 2

### **PEDDLERS, SOLICITORS, ETC.**<sup>1</sup>

#### **SECTION**

- 9-201. Permit required.
- 9-202. Definitions.
- 9-203. Exemptions.
- 9-204. Eligibility.
- 9-205. Permit procedure.
- 9-206. Business license required.
- 9-207. Restrictions on permit holders in general.
- 9-208. Additional restrictions on transient vendors.
- 9-209. Display of permit, business license, etc.
- 9-210. Revocation of permit.
- 9-211. Violation and penalty.

**9-201. Permit required.** It shall be unlawful for any peddler, solicitor, solicitor for charitable or religious purposes, street barker, or transient vendor to ply his trade within the corporate limits without first obtaining a permit therefore in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1978 Code, § 5-201)

**9-202. Definitions.** Unless otherwise expressly stated, whenever used in this chapter the following words shall have the meaning given to them in this section:

(1) "Peddler" means any person who individually or as an agent or employee of any firm, corporation, or organization, who has no permanent regular place of business and who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering the same for sale, or offering personal services for sale.

(2) "Solicitor" means any person, who individually or as an agent or employee of any firm, corporation or organization, who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, personal property of any nature whatever for future delivery, or services of any kind or nature, except

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.



that the term shall not include solicitors for charitable and religious purposes as that term is defined below.

(3) "Solicitor for charitable or religious purposes" means any person who individually or as an agent or employee of any firm, corporation or organization who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, soliciting contributions from the public for any charitable or religious organization. No person, firm, corporation or organization shall qualify as a solicitor for religious purposes unless it meets one of the following conditions:

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

(b) Is a member of United Way, Community Chest or a similar "umbrella" organization for charitable or religious organizations organized and operating in the City of Sparta.

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

(4) "Street barker" means any person who engages in the business or conduct as a peddler individually or is an agent or employee of any firm, corporation or organization during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(5) "Transient vendor" means any person who individually or as an agent or employee of any firm, corporation or organization who brings into temporary premises and exhibits stocks of merchandise to the public, or offers to perform services or entertainment. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a business or residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle, which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (1978 Code, § 5-202)

**9-203. Exemptions.** The terms of this chapter shall not apply to:

(1) Persons selling at wholesale to dealers, newsboys, bona fide merchants who merely deliver goods in the regular course of business;

(2) Persons selling agricultural products, who themselves produced the products being sold;

(3) Persons involved in fund raising activities or programs by any public school, and

(4) Craft shows, antiques shows, gun shows, auto shows and similar temporary shows and exhibits which are not open or operating as public facilities for such particular purpose for more than fourteen (14) days during any calendar year except that the owner, manager, operator or promoter of each such facility shall be required to obtain a business license and shall prior to opening and operating such facility pay a fee of \$100.00 to the City of Sparta which shall be valid at the particular location for up to fourteen (14) consecutive days. (1978 Code, § 5-203)

**9-204. Eligibility.** It is the intent of this section to treat each person, and each firm, corporation and organization, and each agent for same, and each person who as an employee or who in any other capacity for such firm, corporation or organization, is covered by this chapter, as a separate person for the purposes of investigation and payment of the permit fee.

Individuals, firms, corporations and organizations are eligible for a permit under this chapter. Persons applying for an individual permit under this chapter shall complete an application on forms provided by the city, and pay the permit fee. Agents applying for a permit for a firm, corporation, organization under this chapter shall complete a separate application, and pay a separate permit fee for the firm, corporation or organization, and the agent and for each individual who as an employee of, or in any other capacity for, the firms, corporation or organization, will engage in the business or conduct of a peddler, solicitor, transient vendor, or street barker. (1978 Code, § 5-204)

**9-205. Permit procedure.** (1) Application form. The application shall be sworn to by the applicant, and shall contain:

(a) Name, date of birth, social security number or other identification number of the applicant, his or her physical description, and a copy of his or her drivers license.

(b) The following complete addresses and telephone numbers of the applicant:

- (i) Permanent;
- (ii) Permanent business;
- (iii) Local residential;
- (iv) Local business.

(c) If the applicant is an agent or employee of a firm, corporation or organization, the written credentials establishing the applicant's employee or any other agency relationship with the firm, corporation or organization.

(d) A statement as to whether or not the applicant has been convicted of any felony within the past ten (10) years, or any misdemeanor other than a minor traffic violation within the past three (3) years, the date and place of any conviction, the nature of the offense, and the punishment or penalty imposed.

(e) The last three (3) cities, towns, or other political subdivisions (if that many) the applicant engaged in the business or conduct as a peddler, solicitor, solicitor for religions or charitable purposes, transient vendor, or street barker immediately prior to making application for a permit under this chapter, and the complete addresses, if any, of the applicant listed under (b) above in those cities, towns or other political subdivisions.

(f) Two photographs of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, measuring at least two inches by two inches, and showing the head and shoulders of the applicant in a clear and distinguishing manner.

(g) A brief description of the type of business and goods to be sold, or in the case of solicitors for charitable or religious purposes, the function of the organization.

(h) The starting and ending dates for which the applicant intends to do business or make solicitations, as well as the street address from which the business will be conducted.

(i) The make, model, complete description, and license tag number and state of issue, of each vehicle the applicant intends to use to make sales or solicitations, whether or not such vehicle is owned by the person making sales or solicitations, or by the firm, corporation or organization itself, or rented or borrowed from another business or person.

(j) A copy of the Tennessee Certificate of Registration for the collection of state and local sales or use taxes for sale of tangible personal property or taxable services for customers in Tennessee pursuant to Tennessee Code Annotated, § 67-6-601.

(k) Proof of zoning approval and compliance from the City of Sparta Codes Enforcement official.

(l) Proof of permission from the owner of the property that the business will occupy.

(m) The names, addresses and phone numbers of two unrelated references who can certify as to the applicant's good moral reputation and business responsibility.

(n) A non-refundable fee of twenty dollars (\$20) shall be paid at the time the application is made to defray the costs of investigating the applicant. The appropriate city staff shall complete the investigation within seventy-two (72) hours and be prepared to either issue or deny the permit to the applicant.

(2) Permit fee. Each applicant for a permit as a peddler, solicitor, or transient vendor shall submit with his application a non-refundable fee of forty dollars (\$40.00). Each applicant for a permit as a street barker shall submit with his application a non-refundable fee of twenty-five (\$25.00). There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes.

(3) Denial or approval of permit. (a) Investigation. Upon the receipt of the application and the payment of the permit fee, the chief of police or his authorized designee shall make an investigation of the applicant for the protection of the public health, safety and general welfare of the public. The police chief shall make a good faith effort to complete the investigation within three complete working days, excluding Saturdays, Sundays and holidays of the city. If the investigation is not complete within that period, the reasons shall be noted on the application. In no event shall the period of the investigation exceed ten (10) days.

(b) Denial of permit. The city recorder shall deny the applicant permit if the investigation discloses that:

(i) The applicant has been convicted of a felony within the past ten (10) years or has been convicted of a misdemeanor other than a minor traffic violation within the past three(3) years; or

(ii) Any information in the application that is materially false or misleading; or

(iii) The business reputation of the applicant is such that the applicant constitutes a threat to the public health, safety or general welfare of the citizens of the city.

(iv) The information supplied in the application is insufficient to permit the chief of police to make a determination under (i), (ii), or (iii) above.

The application of a firm, corporation or organization may be rejected if the investigation discloses no information that would disqualify it for a permit where the investigation of the agent or a prospective peddler, solicitor, solicitor for charitable purposes, street barker or transient vendor for the firm, corporation or organization discloses information that disqualifies any of them for a permit.

(c) Approval of permit. If the investigation discloses no grounds for the denial of the permit, the city recorder shall issue a permit to the applicant.

(d) Appeal of denial. The refusal of the police chief to recommend issuance of a permit may be appealed to the city administrator. The aggrieved applicant, may within ten (10) days following the date of receipt of notice of the refusal of issuance of a permit, appeal the refusal by giving the city administrator written notice

of request for an appeal, stating the grounds for the request. The city administrator shall set a hearing on the appeal for a date falling within ten (10) days following the date of the receipt of the request. The decision of the city administrator shall be final.

(4) The permit. The permit shall show the name of the permittee and (if the permittee is a firm, corporation or organization) the name of the solicitor, solicitor for charitable purposes, street barker or transient vendor, the kind of goods and/or services authorized to be sold, the amount of the permit fee paid, the date of issuance of the permit, and the period of the permit, and shall have attached a copy of the photograph of the permittee.

(5) Expiration and renewal of permit. The permit for peddlers, solicitors, solicitors for religious and charitable purposes and transient vendors shall expire thirty (30) days from the date of issuance. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed.

(6) Transient vendor tax. Transient vendors shall pay a tax of fifty dollars \$50.00 for each fourteen (14) day period during which such vendors sell merchandise or for which they are issued a business license. Said tax shall be paid before the first day of engaging in business. (1978 Code, § 5-205, as amended by Ord. #02-753, Oct. 2002)

**9-206. Business license required.** Each person, or each firm, corporation or organization issued a permit under this chapter as a peddler, solicitor, street barker or transient merchant shall be required to obtain appropriate business license before soliciting or making sales. (1978 Code, § 5-206)

**9-207. Restrictions on permit holders in general.** No person while conducting the business or activity of peddler, street barker, solicitor, solicitor for charitable or religious purposes, transient vendor, or street barker shall:

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

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

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

(4) Call attention to his or her business or merchandise or to his or her solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise; except that the street barker shall be allowed to cry out to call

attention to his business or merchandise during recognized parade or festival days of the city.

(5) Enter or attempt to enter in or upon any residential or business premises wherein the authorized owner, occupant or person legally in charge of the premises has in a conspicuous place posted, at the entry to the premises or at the entry to the principal building of the premises, a sign or placard in letters at least one inch high bearing the notice "Peddlers Prohibited," "Solicitors Prohibited," "Peddlers and Solicitors Prohibited," or a similar language of the same import, is located.

(6) Enter in or upon any residential premises without prior invitation of the authorized owner, occupant or person legally in charge of the premises between 7:00 P.M. and 8:00 A.M. (1978 Code, § 5-207)

**9-208. Additional restrictions on transient vendors.** A transient vendor shall not:

(1) Advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, canceled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

(2) Locate temporary premises as the term is defined in this chapter on or in any public street, highway or any other public way or place, or on private property without the written permission of the property owner or other person in authorized control of the property. (1978 Code, § 5-208)

**9-209. Display of permit, business license, etc.** Each peddler, solicitor and street barker is required to have in his possession a valid permit, and each transient vendor is required to have a valid permit in his possession and prominently displayed in public view. In addition, transient vendors shall also have in their possession a valid business license and written permission of any private property owner or other person in control of the property from which he or she is conducting business. All required documents shall be provided to any police or codes enforcement officer upon demand. Solicitors for charitable and religious purposes shall be required to have a valid permit in their possession. (1978 Code, § 5-209, as amended by Ord. #02-753, Oct. 2002)

**9-210. Revocation of permit.** (1) Causes. The permit issued to any person or to any firm, corporation or organization under this chapter may be revoked by the city administrator for any of the following causes:

(a) Fraud, misrepresentation, or false or misleading statement contained in the application for a permit.

(b) Fraud, misrepresentation or false or misleading statement made by the permittee in the course of the business or conduct of a

peddler, solicitor, solicitor for charitable or religious purposes, transient vendor or street barker.

(c) Any violation of this chapter.

(d) Any other conduct of the permittee that constitutes a threat to the health, safety, or general welfare of the citizens of the city.

(2) The notice of revocation. (a) City administrator's option. The city administrator shall have the option of revoking the permit effective, immediately after notice, or effective after notice and hearing. However, the city administrator shall revoke the permit effective immediately only after a written finding of the reasons that to delay the revocation of the permit would represent an intolerable threat to the health, safety or general welfare of the citizens of the city.

(b) Notice if the permit holder is a person. If the permit holder is a person, the city shall make a reasonable effort to personally deliver the notice of revocation effective to the permit holder. If the permit holder cannot be found after such reasonable effort, the notice shall be sent by registered or certified United States Mail to the local residential or business address of the permit holder. If the permit holder has no local residential or business address the notice shall be sent to the permit holder's permanent address.

(c) Notice if the permit holder is a firm corporation or organization. The personal notice provided for above may be given to the agent of the firm, corporation or organization, or to any employee or agent of the firm, corporation, organization; otherwise, the notice procedure prescribed by (b) above shall apply where the permit holder is a firm, corporation or organization.

(d) Contents of notice and hearing. The notice shall set forth the specific grounds for revocation of the permit and shall set a hearing on the revocation on a date falling not less than five (5) nor more than (10) days from the date of the notice.

(3) Hearing on the revocation. At the hearing on the revocation of the permit, the permittee shall be entitled to respond to the charges against him or her and to be represented by counsel at his or her expense. The city administrator's decision shall be final.

(4) Reapplication. No applicant whose permit has been revoked shall make further application until a period of at least one (1) year has elapsed since the last revocation. (1978 Code, § 5-210, as amended by Ord. #02-753, Oct. 2002)

**9-211. Violation and penalty.** In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provisions of this municipal code of ordinances. (1978 Code, § 5-211)

## CHAPTER 3

### TAXICABS<sup>1</sup>

#### SECTION

- 9-301. Taxicab privilege license required.
- 9-302. Liability insurance or bond required.
- 9-303. Revocation or suspension of franchise.
- 9-304. Mechanical condition of vehicles.
- 9-305. Cleanliness of vehicles.
- 9-306. Inspection of vehicles.
- 9-307. License and permit required for drivers.
- 9-308. Qualifications for driver's permit.
- 9-309. Revocation or suspension of driver's permit.
- 9-310. Drivers not to solicit business.
- 9-311. Parking restricted.
- 9-312. Drivers to use direct routes.
- 9-313. Taxicabs not to be used for illegal purposes.
- 9-314. Miscellaneous prohibited conduct by drivers.
- 9-315. Transportation of more than one passenger at the same time.

**9-301. Taxicab privilege license required.** It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a currently effective privilege license. (1978 Code, § 5-401)

**9-302. Liability insurance or bond required.** It shall be unlawful to operate any taxicab or conduct any taxicab business unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in the minimum amount of ten thousand dollars (\$10,000.00) for bodily injury to any one person; in the minimum amount of twenty thousand dollars (\$20,000.00) for injuries to more than one person which are sustained in the same accident; and in the minimum amount of five thousand dollars (\$5,000.00) property damage resulting from any one accident. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1978 Code, § 5-402)

**9-303. Revocation or suspension of franchise.** The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.



therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1978 Code, § 5-403)

**9-304. Mechanical condition of vehicles.** It shall be unlawful for any person to operate any taxicab in the City of Sparta unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1978 Code, § 5-404)

**9-305. Cleanliness of vehicles.** All taxicabs operated in the city shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1978 Code, § 5-405)

**9-306. Inspection of vehicles.** All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1978 Code, § 5-406)

**9-307. License and permit required for drivers.** No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1978 Code, § 5-407)

**9-308. Qualifications for driver's permit.** No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

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

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

(7) Is familiar with the state and local traffic laws. (1978 Code, § 5-408)

**9-309. Revocation or suspension of driver's permit.** The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-308. (1978 Code, § 5-409)

**9-310. Drivers not to solicit business.** All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the city for the purpose of obtaining patronage for their cabs. (1978 Code, § 5-410)

**9-311. Parking restricted.** It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the city for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1978 Code, § 5-411)

**9-312. Drivers to use direct routes.** Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1978 Code, § 5-412)

**9-313. Taxicabs not to be used for illegal purposes.** No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1978 Code, § 5-413)

**9-314. Miscellaneous prohibited conduct by drivers.** It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1978 Code, § 5-414)

**9-315. Transportation of more than one passenger at the same time.** No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1978 Code, § 5-415)

## CHAPTER 4

### **PLUMBERS AND GAS PIPE FITTERS**

#### **SECTION**

9-401. Qualifications of plumbers and gas pipe fitters.

9-402. License required; fee.

9-403. Suspension, revocation of licenses.

**9-401. Qualifications of plumbers and gas pipe fitters.** Any person proposing to undertake the installation, repair, extension or alteration of plumbing and plumbing appliances or gas piping and appliances shall upon request of the codes enforcement officer give satisfactory evidence of being duly qualified to perform such duties. A practical knowledge of the rules embodied in the plumbing code, or, in the case of gas pipe fitters, of the requirements and rules embodied in the gas code adopted in title 12 shall be considered prima facie evidence of qualification. (1978 Code, § 5-501)

**9-402. License required; fee.** (1) No person shall engage in or work at the installation, extension, alteration or repair of plumbing or plumbing appliances or gas piping and appliances without first securing annually a license from the codes enforcement officer. The fee for such annual license shall be fifty dollars (\$50.00).

(2) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of this chapter. (1978 Code, § 5-502)

**9-403. Suspension, revocation of licenses.** Any person engaged in doing or contracting to do work regulated by this chapter shall at all times be subject to the rules and regulations set out in this chapter and the plumbing and gas codes; and for the purpose of maintaining their work in conformance with said provisions, such work as may be undertaken by them shall be subject to inspection and approval by the codes enforcement officer and upon their violation of any safety requirements the licenses hereinabove provided for, outstanding in the name or names of such person or persons, may be at the instance of the codes enforcement officer, suspended for such period of times in the discretion of the codes enforcement officer may be proper, or may be revoked by him; however, the holder of the license so suspended or revoked shall have the right to appeal to the board of mayor and aldermen. (1978 Code, § 5-503)

## CHAPTER 5

### ELECTRICIANS

#### SECTION

- 9-501. Qualifications of electricians.
- 9-502. Licenses required; fees.
- 9-503. Suspension, revocation of license.
- 9-504. Violations, penalties.

**9-501. Qualifications of electricians.** Any person proposing to undertake the installation, repair or alteration of electrical wiring systems, fixtures, or appliances, intended for the utilization of light, heat or power, shall upon request of the codes enforcement officer, give satisfactory evidence of being duly qualified to perform such duties, but nothing in this chapter shall be construed as prohibiting the operation of any electrical shop for repairing of motors, fixtures or other electrical appliances within such shops. A practical knowledge of the requirements and rules as embodied in the National Electrical Code as adopted in title 12 shall be considered prima facie evidence of qualification. (1978 Code, § 5-601)

**9-502. Licenses required; fee.** (1) It shall be the duty of all persons engaged in the business of installations, alterations or repair of electrical systems or installations to secure annually a license written from the codes enforcement officer before any system of electrical wiring, designed or used to supply electrical current, for light, heating, or power, shall be installed, enlarged, altered or repaired, and before any appliance, device or equipment designed or intended to utilize such current for the development of light, heat or power, shall be connected thereto, within the municipality. The fee for the issuance of such annual license shall be two dollars and fifty cents (\$2.50).

(2) Provided that no license shall be required for the installation of any portable or detachable appliance rated at six hundred and sixty (660) watts or less and for which convenience outlets are already provided. Portable appliances are hereby defined as devices capable of being readily moved and which can be detached from the source of current or connected thereto, by means of a flexible cord and attachment plug. (1978 Code, § 5-602)

**9-503. Suspension, revocation of licenses.** Any person engaged in doing or contracting to do such electrical work shall at all times be subject to the rules and regulations as set out in this chapter and the electrical code adopted in title 12; and for the purpose of maintaining their work in conformance with said provisions, such work as may be undertaken by them shall be subject to inspection and approval by the codes enforcement officer; and upon their violation of any safety requirements the licenses hereinabove provided for,

outstanding in the name or names of such person or persons, may be, at the instance of the codes enforcement officer, suspended for such period of time as in the discretion of the officer may be proper, or may be revoked by him; however, the holder of the license so suspended or revoked shall have the right to appeal such suspension or revocation to the board of mayor and aldermen. (1978 Code, § 5-603)

**9-504. Violations, penalties.** Any person, firm or corporation or agent who shall violate a provision of this chapter or the electrical code adopted in title 12 or fail to comply therewith or with any of the provisions thereof, or violate a detailed statement or plans submitted and approved thereunder, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter or said code is committed or continued. (1978 Code, § 5-604)

## CHAPTER 6

### ARCADES, AMUSEMENT HALLS, GAME ROOMS, ETC.

#### SECTION

9-601. Visibility requirements.

9-602. Disorderly conduct.

9-603. Hours.

9-604. Right of entry and inspection.

**9-601. Visibility requirements.** (1) All billiard halls, pool rooms, arcades, amusement halls, recreation halls and game rooms are hereby required to maintain reasonable visibility into same from the outside, and to maintain no screens, frosted windows, curtains or other obstructions intended to obscure the public view into the ground floor of such places of business from the outside.

(2) All business establishments containing pinball machines, electronic games, pool tables, or other such mechanical amusement devices are hereby required to maintain such games or devices in a portion of the premises which is open and unlocked, and into which access by the general public and law enforcement officials is not denied at any time. (1978 Code, § 5-701)

**9-602. Disorderly conduct.** All billiard halls, pool rooms, arcades, amusement halls, game rooms, recreation halls and other establishments containing pinball machines, electronic games, or other such mechanical amusement devices, are hereby required to be run in a quiet and orderly manner and all unseemly or boisterous noise or conduct in or around such places or devices is prohibited. All persons guilty thereof are guilty of a misdemeanor and the person owning or in charge of such place allowing the same to occur with his knowledge is likewise guilty of a misdemeanor. (1978 Code, § 5-702)

**9-603. Hours.** (1) No person owning or operating a billiard hall, pool room, arcade, amusement hall, recreation hall, or game room shall open such a place of business prior to 6:00 A.M. of any day except Sunday, which time of opening shall be 1:00 P.M. Such places of business are further required to close no later than 12:00 P.M. on Monday through Thursday, 2:00 A.M. on Friday and Saturday, and 6:00 P.M. on Sunday.

(2) It shall be unlawful for any person to play or operate a pinball machine, electronic game, or other such mechanical amusement device prior to 6:00 A.M. of any day except Sunday, which time shall be 1:00 P.M., or after 12:00 P.M. on Monday through Thursday, 2:00 A.M. on Friday and Saturday, and 6:00 P.M. on Sunday. It shall further be unlawful for any person having the control of such machines, games or devices to allow them to be played or operated except during said hours.

(3) All persons maintaining and controlling pinball machines, electronic games, or other such mechanical amusement devices are required to post a sign on such machine or device, or in a conspicuous place near thereto, advising the general public that operation or play on said machines prior to 6:00 A.M. weekdays and 1:00 on Sunday and after the hours of 12:00 P.M. Monday through Thursday, 2:00 A.M. on Friday and Saturday, and 6:00 P.M. on Sunday, is prohibited. (1978 Code, § 5-703)

**9-604. Right of entry and inspection.** Because of the potential for use of entertainment devices for gambling, and the enticement of entertainment establishments to the youth of Sparta, it is deemed in the public interest and within the police power of the City of Sparta to maintain the right to enter and inspect such establishments in order to insure the absence of illegal devices or the carrying on of illegal activities therein. It is therefore declared, that the City of Sparta shall have, through its authorized law enforcement officers, a perpetual right of entry and inspection, without the necessity for warrant, into any and all areas of billiard halls, pool rooms, arcades, amusement halls, recreation halls, and game rooms, at any time, in order to determine the legality of the activities being carried on therein. (1978 Code, § 5-705)



## CHAPTER 7

### FLEA MARKETS

#### SECTION

- 9-701. Title.
- 9-702. Purpose; function.
- 9-703. Definitions.
- 9-704. Conflict of ordinances; effect of partial invalidity.
- 9-705. Penalties for violation.
- 9-706. Permit required.
- 9-707. Applications.
- 9-708. Flea market site plan layout; approval.
- 9-709. Inspections.
- 9-710. Revocation.
- 9-711. Inspections to determine compliance of existing flea markets; exemption.
- 9-712. Appeals.
- 9-713. Emergencies.
- 9-714. Minimum size of flea markets.
- 9-715. Flea market booths generally.
- 9-716. Site improvement requirements.
- 9-717. Water supply requirements.
- 9-718. Restroom and sewage disposal.
- 9-719. Electrical distribution system.
- 9-720. Structural requirements.
- 9-721. Fireplaces, etc.
- 9-722. Refuse handling.
- 9-723. Insect and rodent control.
- 9-724. Fuel supply and storage.
- 9-725. Fire protection.
- 9-726. Responsibilities of flea market management.

**9-701. Title.** This chapter shall be known and cited as the "Flea Market Ordinance" for Sparta, Tennessee." (1978 Code, § 5-801)

**9-702. Purpose; function.** (1) This chapter is adopted in order to promote the health, safety, morals, and general welfare of the inhabitants of Sparta, Tennessee, by regulating the location, design, and maintenance of flea markets.

(2) This chapter establishes minimum standards for flea markets. (1978 Code, § 5-802)

**9-703. Definitions.** (1) General. Unless the context of this chapter requires, the following definitions shall be used in the interpretation and

administration of the chapter. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "structure" shall include "arranged", "designed", "constructed", "altered", "converted", "rented", "leased", or "intended to be used"; and the word "shall" is mandatory and not optional.

(2) Definitions. (a) Accessory structure. Any structural addition which includes awnings, cabanas, carports, Florida rooms, porches, ramadas, storage cabinets, and similar appurtenant structures.

(b) "Building." A roofed structure erected for permanent use.

(c) "Building inspector." The codes enforcement officer of Sparta, Tennessee.

(d) "Booth." The area of the flea market site that is for the purpose of displaying and selling merchandise and is considered to be of a 10' x 10' or 100 square foot size.

(e) "Common area." Any area or space designed for joint use of tenants occupying flea markets.

(f) "Density." The number of flea market booths per gross acre.

(g) "Easement." A vested or acquired right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than that of the owner who hold title to the land.

(h) "Enforcing agency." The office of the city administrator and codes enforcement officer of Sparta, Tennessee, charged by law with the duty to enforce the provisions of this chapter.

(i) "Flea market." An activity where stalls or spaces within the bounds of a specific location are made available to the vendor of:

- (i) Handicraft items,
- (ii) New merchandise, or
- (iii) Secondhand items.

(j) "Governing body." The board of mayor and alderman of the City of Sparta.

(k) "Lot line." The line bounding the lot as shown on the accepted plot plan.

(l) "Market management." The person who owns or has charge, care or control of the flea market.

(m) "Permit." A written document issued by the codes enforcement officer allowing a person to locate a flea market or to construct, alter or extend a flea market under the provisions of this chapter.

(n) "Person." Any individual, firm, trust, partnership, public or private association or corporation, or other entity.

(o) "Service building." A structure housing sanitary, operational, office, recreational, maintenance and other facilities built to conform to required standards.

(p) "Sewer connection." Pipes, fittings and appurtenances from the drain outlet of the flea market stand and the inlet of the corresponding sewer riser pipe of the sewer system serving the flea market. (1978 Code, § 5-803)

**9-704. Conflict of ordinances; effect of partial invalidity.** In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the municipality, the provision which establishes the higher standard shall prevail. (1978 Code, § 5-804)

**9-705. Penalties for violation.** Any person who violates any provisions of this chapter shall, upon conviction, be punished by a fine of not more than fifty dollars (\$50.00), and each day's failure of compliance with any such provision shall constitute a separate violation. (1978 Code, § 5-805)

**9-706. Permit required.** It shall be unlawful for any person to locate a flea market or to construct, alter or extend any flea market within the limits of the city, unless he holds a valid permit issued by the codes enforcement officer. Construction must begin within one hundred eighty (180) days after issuance of the permit. (1978 Code, § 5-806)

**9-707. Applications.** All applications for permits for flea markets shall be submitted to the code enforcement officer, after submission and approval of the final site plan. (1978 Code, § 5-807)

**9-708. Flea market site plan layout; approval.** (1) Generally; required information. A flea market site plan layout shall be drawn at a scale no smaller than twenty (20) feet to one (1) inch and shall show the following information:

(a) Three (3) black or blue line prints of the final site plan shall be submitted to the codes enforcement officer and shall contain the following information:

(i) Name and address of applicant; if the applicant is a partnership, the names and addresses of the partners; if the applicant is a corporation, the names and addresses of the officers and directors.

(ii) Name and address of owner of land.

(iii) Location (vicinity map).

(iv) Scale of one (1) inch equals twenty (20) feet.

(v) North arrow.

(vi) The area and dimensions of the tract of land.

(vii) The number, location and size of all flea market stands.

(viii) The location, width and area of roadways, parkways, streets, driveways and walks.

(ix) The location of service buildings and any other proposed structures.

(x) Location and design of parking spaces.

(xi) Number of flea market booths.

(b) Review and comment of the flea market site plan layout shall be noted in a report of the code enforcement officer.

(2) Requested reports; contents. Before acting on the flea market site plan layout, the code enforcement officer may request a report from any person or agency directly concerned with the proposed development, such as the street superintendent or utilities manager. Such reports shall certify compliance with or note deviations from the requirement of this chapter, and include comments on other factors which bear upon the public interest. The responsibility of securing said reports is that of the codes enforcement officer.

(3) Application for permit to construct flea market; plans. Any time after approval of the final site plan, application may be made to the code enforcement officer for a permit for the construction of the flea market. Two (2) complete sets of construction plans shall be submitted to the code enforcement officer upon issuance of a permit containing the following:

(a) The approved final site plan.

(b) Location of water and sewer lines and user pipes and manholes.

(c) Plans and specifications of the water supply, sewer lines, storm drainage system, refuse and sewerage disposal facilities.

(d) Plans and specifications of all buildings to be constructed, altered or extended within the flea market.

(e) The location of details of lighting and electrical systems.

(4) Review of application; issuance of construction permit. Upon review of the application, and subject to evidence that the flea market meets the minimum requirements of the Tennessee Department of Health by the White County Health Department, the code enforcement officer shall issue a permit when a review of the application and inspection of the site demonstrates that the proposed or existing flea market meets the requirements of this chapter. (1978 Code, § 5-808)

**9-709. Inspections.** (1) The code enforcement officer is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this chapter.

(2) The code enforcement officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to enforcement of this chapter.

(3) The code enforcement officer may request inspections by and verifications of compliance from the department of public health relating to any

of the rules and regulations of state and/or local health department. Representatives of the department of public health shall have the same powers of entry and inspection as provided for the inspections and code enforcement division. (1978 Code, § 5-809)

**9-710. Revocation.** Any permit for a flea market may be revoked when it is found to be in violation of this chapter.

(1) Should the code enforcement officer find that conditions exist which are in violation of any provision of this chapter, notice shall be given to the permittee or owner that unless such conditions or practices are corrected within thirty (30) days, the permit will be revoked.

(2) If at the end of thirty (30) days, a further inspection reveals that the conditions or practices have not been corrected, the code enforcement officer shall then revoke the permit and give notice of such suspension in writing to the permittee or owner. Upon notice of revocation, the permittee or owner shall cease operation and/or construction of the flea market. (1978 Code, § 5-810)

**9-711. Inspections to determine compliance of existing flea markets; exemption.** Upon enactment of this chapter all existing flea markets shall be inspected by the codes enforcement officer, to determine compliance or noncompliance with the terms as set forth within. All existing flea markets shall be required to come into compliance with all other provisions of this chapter within twelve (12) months from the date of the inspection. (1978 Code, § 5-811)

**9-712. Appeals.** (1) Petition. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter relating to flea markets, or of any regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the board of codes appeals, provided that such person shall file in the office of the codes enforcement officer a written statement of the grounds of such request. The filing of the request for a hearing shall operate as a stay of the notice and suspension except in the case of an order issued under § 9-713. Upon receipt of such request, the board of codes appeals shall set a time and place for such hearing and shall give the petitioner written notice thereof.

(2) Hearing. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn.

(3) Order of board of codes appeals. After such hearing the board of codes appeals shall make findings as to compliance with the provisions of this chapter and regulations issued thereunder and shall issue an order sustaining modifying or withdrawing the notice. Upon failure to comply with any order sustaining or modifying a notice, the permit of the flea market affected by the order shall be revoked. (1978 Code, § 5-812)

**9-713. Emergencies.** (1) Whenever the codes enforcement officer finds that an emergency exists which requires immediate action to protect the public health, including violations of any of the applicable rules and regulations of the Tennessee Department of Public Health or ordinances of the City of Sparta, he may, without notice or hearing issue an order reciting the existing of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency including the suspension of the permit of license. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the board of codes appeals, he shall be afforded a hearing as soon as possible.

(2) The provisions of § 9-712 shall be applicable to such hearing and the order issued thereafter. (1978 Code, § 5-813)

**9-714. Minimum size of flea markets.** The minimum size of a flea market shall be one (1) acre. (1978 Code, § 5-814)

**9-715. Flea market booths generally.** Flea market structures shall be constructed in compliance with all applicable building codes. (1978 Code, § 5-815)

**9-716. Site improvement requirements.** (1) Generally. Condition of soil, ground water level, drainage, and topography shall not create hazards to the property so or the health or safety of the occupants. The site shall not be exposed to objectionable smoking, noise, odors or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.

(2) Soil and ground cover. Exposed ground surfaces in all parts of every flea market shall be paved, or covered with stone screenings, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust and/or mud.

(3) Site drainage requirements. The ground surface in all parts of every flea market shall be graded and equipped to drain all surface water in a safe, efficient manner in order to eliminate water pockets, low areas or bogs.

(4) Setbacks, buffer strips. (a) All flea market structures shall be located at least twenty-five (25) feet from any public street or highway right-of-way and at least ten (10) feet from the exterior property boundary lines.

(b) All flea markets adjacent to residential zoning districts shall be provided with screening such as trees, shrubbery, or well maintained opaque fence(s) along the boundary line(s) separating the flea market and adjacent zoning district. Such screening shall be a minimum of six (6) feet in height.

(c) All flea market booths shall be located at least fifteen (15) feet from any public street or highway right-of-way or exterior property boundary line.

(5) Street system. (a) General requirements. All flea markets shall be provided with safe and convenient vehicular access from abutting public streets, roads or highways. Private streets constructed on the site of the flea market for use by flea market vendors and customers shall, at a minimum, consist of crushed stone of sufficient amount to allow vehicular traffic in inclement weather conditions without detriment to other adjoining public streets or nuisance to the public.

(b) Access. Access to flea markets shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the market streets with a public street or road shall have a minimum road surface width of twelve (12) feet for one-way streets with no parking on either side of the street, twenty (20) feet for two-way streets where there will be no parking on either side of the street, thirty-six (36) feet for two-way streets where parking is permitted on both sides, and a minimum road surface width of twenty-seven (27) feet for two-way streets where parking is limited to one side.

(6) Off-street parking. Off-street parking areas shall be provided in all flea markets. Parking shall be furnished at the rate of two (2) spaces per booth.

(7) Walks, general requirements. All flea markets shall be provided with safe, convenient, all-season, dust free, pedestrian access of adequate width for intended use and durable and convenient to maintain. Sudden changes in alignment and gradient shall be avoided.

(8) Identification. Each booth shall be numbered. Each number shall be easily identified from the nearest street or driveway. (1978 Code, § 5-816)

**9-717. Water supply requirements.** (1) Generally. An accessible, adequate, supply of water shall be provided in each flea market.

(2) Compliance with plumbing code. The water supply system of the flea market shall be constructed and connected in accordance with plumbing code of the city. (1978 Code, § 5-817)

**9-718. Restroom and sewage disposal.** (1) There shall be a minimum of one (1) central restroom facility located on the premises. Within that central restroom there shall be separate facilities for men and women.

(2) Hot and cold water be furnished to every lavatory and sink; water shall be furnished to every water closet and urinal.

(3) Restrooms shall contain the minimum of fixtures as required by the plumbing code.

(4) An adequate and safe sewage system shall be provided in all flea markets for conveying and disposing of all sewage. Such system and connection shall be designed, constructed and maintained in accordance with the provisions of the plumbing code of the city, and the approval of the Tennessee Department of Health. (1978 Code, § 5-818)

**9-719. Electrical distribution system.** Every flea market shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances for each flea market structure, which shall be installed and maintained in accordance with applicable electric codes of the city. (1978 Code, § 5-819)

**9-720. Structural requirements.** All structures to include booths shall comply with the building code of the city. All materials used shall be grade marked lumber, as specified by building code. (1978 Code, § 5-820)

**9-721. Fireplaces, etc.** Cooking shelters, barbecue pits, fireplaces and woodburning stoves shall be so located, constructed, maintained and used as to avoid fire hazards and smoke nuisance, both on the property on which used and on neighboring property. No open fire shall be permitted except in facilities provided. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors. No refuse shall be burned at any time. (1978 Code, § 5-821)

**9-722. Refuse handling.** (1) Generally. The storage, collection and disposal of refuse in the flea markets shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

(2) Containers. All refuse shall be stored in flytight, watertight, rodent-proof containers provided by the flea market park operator for each flea market stand in sufficient number and capacity to properly store all refuse.

(3) Refuse collection stands. Where refuse collection stands are provided for common or joint use, such stands shall be located not more than one hundred fifty (150) feet from using flea market stand, and shall be so designed as to prevent containers from being tipped, so minimize spillage and container deterioration and to facilitate cleaning around them.

(4) Bulk waste containers. Where bulk waste containers of three (3) cubic yards or more are utilized, a suitable concrete pad shall be provided for parking the container.

(5) Collection, transportation. All refuse containing garbage shall be collected at least twice weekly. Where suitable collection service is not available from municipal or private agencies, the flea market operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.



(6) Disposal site. Where municipal or private collection service is not available, the flea market operator shall dispose of the refuse by transporting to an appropriate disposal site.

(7) Refuse incinerators. Refuse incinerators and their operation shall comply with provisions of the state air quality standards of Tennessee, and shall be operated only when attended by some person specifically authorized by the owner or operator of the flea market. (1978 Code, § 5-822)

**9-723. Insect and rodent control.** (1) Extermination. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the health authority.

(2) Accumulations of debris. Flea markets shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

(3) Storage areas. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building materials shall be stored at least one (1) foot above the ground.

(4) Exterior openings. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.

(5) Growth of weeds, etc. to be controlled. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Flea markets shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description. (1978 Code, § 5-823)

**9-724. Fuel supply and storage.** (1) Natural gas system. Natural gas piping systems shall be installed and maintained in accordance with applicable gas codes.

(2) Liquified petroleum gas systems. Liquified petroleum gas systems shall be installed and maintained in accordance with applicable gas codes of the city.

(3) Fuel oil supply system. All fuel oil supply systems shall be installed and maintained in accordance with applicable gas codes of the city. (1978 Code, § 5-824)

**9-725. Fire protection.** (1) The flea markets shall be subject to fire prevention ordinances adopted by the City of Sparta.

(2) Flea markets shall be kept free of litter, rubbish and other flammable materials.

(3) Portable fire extinguishers of a type approved by the applicable fire codes shall be kept in service buildings and at all other locations designated by the applicable codes and shall be maintained in good operating condition.

(4) Fires shall be made only in stoves, incinerators and other equipment intended for such purposes. (1978 Code, § 5-825)

**9-726. Responsibilities of flea market management.**

(1) Compliance required. The person to whom a permit for a flea market is issued shall operate a flea market in compliance with this chapter and regulations issued hereunder and shall provide adequate supervision to maintain the park [market], its facilities and equipment in good repair and in a clean and sanitary condition.

(2) Notification of tenants. The flea market management shall notify market tenants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter and regulations issued hereunder.

(3) Placement of booths. The flea market management shall supervise the placement of each flea market booth on its stand which includes securing its stability and installing all utility connections. (1978 Code, § 5-826)

## CHAPTER 8

### CABLE TELEVISION

#### SECTION

9-801. To be furnished under franchise.

9-802. Regulation of rates charged for cable television service and equipment.

9-803. Definitions.

9-804. Cable television customer service and consumer protection standards.

9-805. Definitions.

9-806. Violation and penalty.

**9-801. To be furnished under franchise.**<sup>1</sup> Cable television shall be furnished for the city and its inhabitants under such franchise as the board of mayor and aldermen shall grant. The rights, powers, duties, and obligations of the city, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1978 Code, § 13-201)

**9-802. Regulation of rates charged for cable television service and equipment.** Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 543, and Federal Communications Commission action under the authority of said Act certifying the City of Sparta to regulate basic cable television service within the boundaries of the City of Sparta; and for the purpose of regulating the rates charged to customers of any cable television operator franchised by the City of Sparta, the regulations contained in Title 47 of the Code of Federal Regulation, Part 78, subpart N sections 76.900 through 76.985, are hereby adopted and incorporated by reference as a part of this code. (1978 Code, § 13-202)

**9-803. Definitions.** Whenever the regulations cited in § 9-802 refer to "franchising authority", it shall be deemed to be a reference to the Board of Mayor and Aldermen of the City of Sparta. (1978 Code, § 13-203)

**9-804. Cable television customer service and consumer protection standards.** Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 543, and Federal Communications Commission action under the authority of said Act authorizing the City of Sparta to enforce cable television customer service and consumer protection

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<sup>1</sup>For complete details relating to cable television franchise agreements see Ord. #186, April 1966; Ord. #97-701, June 1997; Ord. #98-712, Oct. 1998; and any amendments, in the office of the city recorder.

standards within the boundaries of the City of Sparta; the regulations contained in Title 47 of the code of Federal Regulations, Part 76, Subpart H, Section 76.309, are hereby adopted and incorporated by reference as a part of this code. Any cable television operator franchised to operate within the corporate limits of the City of Sparta shall meet all the standards contained in the regulations cited in this section. (1978 Code, § 13-204)

**9-805. Definitions.** Whenever the regulations cited in § 9-804 refer to "franchising authority", it shall be deemed to be a reference to the Board of Mayor and Aldermen of the City of Sparta. (1978 Code, § 13-205)

**9-806. Violation and penalty.** Any violation of § 9-804 shall subject the offender to a penalty up to five hundred dollars (\$500) for each offense. Each day the violation shall continue a separate offense. Upon receipt of notice of violation from the franchising authority, the cable operator shall have thirty (30) days to correct the violation before a monetary penalty may be imposed. (1978 Code, § 13-206)

## **TITLE 10**

### **ANIMAL CONTROL**

#### **CHAPTER**

1. IN GENERAL.
2. DOGS, CATS, AND ANIMALS IN GENERAL.
3. PIT BULLS.

#### **CHAPTER 1**

#### **IN GENERAL**

#### **SECTION**

- 10-101. Cruelty.
- 10-102. Livestock, domestic fowl, offensive animals at large prohibited.
- 10-103. Dangerous, mischievous animals at large prohibited.
- 10-104. Seizure, disposition of animals, fowl at large.
- 10-105. Cleanliness of pens, enclosures.
- 10-106. Keeping in stock near residences.
- 10-107. Inspections of premises.

**10-101. Cruelty.** If any person shall overdrive, overload, torture, torment, deprive of necessary sustenance, or cruelly beat, or needlessly mutilate, or kill, or cause or procure same to be done, as aforesaid, any living creature, or use, buy, sell or exchange any horse or mule, when unfit for labor, every such offender shall, for every offense, be guilty of a misdemeanor. Nothing herein shall prohibit the purchase of animals by humane societies, incorporated under the laws of this state, for the purpose of humanely killing the same. (1978 Code, § 3-101)

**10-102. Livestock, domestic fowl, offensive animals at large prohibited.** It shall be unlawful for any person owning or being in charge of any cattle, cows, swine, sheep, horses, mules, goats or any offensive animal, or any chickens, ducks, geese, turkeys or other domestic fowl, to permit them or any of them to run at large in any street, alley or unenclosed lot within the municipality. (1978 Code, § 3-102)

**10-103. Dangerous, mischievous animals at large prohibited.** It shall be unlawful for any person owning or being in charge of a dangerous or mischievous animal to permit the same to run at large. (1978 Code, § 3-103)

**10-104. Seizure, disposition of animals, fowl at large.**

(1) Impounding. Any animal or fowl found running at large in violation of this chapter may be seized by any police officer and impounded in a suitable place provided or designated by the board of mayor and aldermen.

(2) Notice. The owner of any such impounded animal or fowl, if known, shall be notified immediately, either personally or by telephone or postcard, to claim said animal or fowl by payment of all costs incurred by the municipality within ten (10) days. If the owner is not known, then a public notice briefly describing said animal or fowl and giving notice of its impoundment and the time it may be claimed shall be run one time in the official newspaper of the municipality. In the event an impounded animal or fowl is not claimed and the costs paid within ten (10) days, said animal or fowl may be sold, given away, or otherwise humanely disposed of by the chief of police.

(3) Sale, disposal; proceeds of sale. When a sale is made, any proceeds over and above the costs incurred by the municipality shall be remitted to the owner of the animal or fowl sold, if known. Otherwise any such surplus shall be paid into the general fund. (1978 Code, § 3-104)

**10-105. Cleanliness of pens, enclosures.** When animals or fowl are kept within the municipality, the building, structure, corral, pen or enclosure in which they are kept shall be maintained in a clean and sanitary condition at all times. (1978 Code, § 3-105)

**10-106. Keeping stock near residences.** (1) It shall be unlawful to keep any horse, cow, mule, goat, hog, pig or other domestic livestock within one hundred and fifty (150) feet of any residence.

(2) If property that is being used for agricultural purposes is incorporated into the city by annexation, said property shall be grandfathered for the provisions of this section as long as it continues to be used for agricultural purposes. If the property grandfathered herein is subsequently subdivided, any divisions of less than five (5) acres shall then be required to meet the distance provisions contained herein.

(3) Property qualifying for the grandfather provisions of 10-106(2) above that ceases to be used for agricultural purposes for a period of one (1) year shall thereafter become subject to the distance requirements of 10-106(1) as specified above. (1978 Code, § 3-106, as amended by Ord. #02-760, Dec. 2002)

**10-107. Inspections of premises.** For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1978 Code, § 3-107)

## CHAPTER 2

### DOGS, CATS, AND ANIMALS IN GENERAL

#### SECTION

- 10-201. Tennessee Anti-Rabies Law adopted.
- 10-202. Definitions.
- 10-203. Identification/vaccination tag required.
- 10-204. Restraint.
- 10-205. Impoundment and violation notice.
- 10-206. Animal care.
- 10-207. Keeping of wild animals.
- 10-208. Animal waste.
- 10-209. Sterilization.
- 10-210. Enforcement.
- 10-211. Penalties.

**10-201. Tennessee Anti-Rabies Law adopted.** The provisions of the Tennessee Anti-Rabies Law (Tennessee Code Annotated, §§ 68-8-801 through 68-8-114) are hereby adopted. (1978 Code, § 3-201)

**10-202. Definitions.** As used in this chapter, the following terms are defined below:

- (1) "Animal." Every non-human species of animal, both domestic and wild.
- (2) "Animal-at-large." Any animal not under the restraint of a person capable of controlling the animal and/or off premises of the owner.
- (3) "Animal shelter." Any facility operated by a municipal agency or its authorized agents, for the purpose of impounding animals under the authority of this chapter or state law for care, confinement, return to owner, adoption, or euthanasia.
- (4) "Animal control officer." Any person designated by the City of Sparta as a law enforcement officer who is qualified to perform such duties under the ordinances of the City of Sparta and/or the laws of the State of Tennessee.
- (5) "Owner." Any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.
- (6) "Pet or companion animal." Any animal kept for pleasure rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.
- (7) "Public nuisance." Any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to

enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal that:

- (a) Is repeatedly found at large;
- (b) Damages the property of anyone other than its owner;
- (c) Molests or intimidates pedestrians or passersby;
- (d) Chases vehicles;
- (e) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (f) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (g) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (h) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained;
- (i) Attacks other domestic animals; or
- (j) Has been found by the animal control officer, after notice to its owner, to be a public nuisance animal by virtue of being a menace to the public health, welfare, or safety.

(8) "Restraint." Any animal secured by a leash or lead under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

(9) "Vicious animal." Any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which, because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.

(10) "Wild animal." Any living member of the animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds. (1978 Code, § 3-202)

**10-203. Identification/vaccination tag required.** Dogs must wear identification tags or collars at all times when off the premises of the owners. (1978 Code, § 3-203)

**10-204. Restraint.** (1) All dogs shall be kept under restraint.

(2) No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.



(3) Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

(4) Every vicious animal, as determined by the licensing authority, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner. (1978 Code, § 3-204)

**10-205. Impoundment and violation notice.** (1) Unrestrained dogs and nuisance animals shall be taken by the animal control officer and impounded in an animal shelter and there confined in a humane manner.

(2) Impounded dogs and cats shall be kept for not fewer than three (3) working days.

(3) If, by a license, identification tag, or other means, the owner of an impounded animal can be identified, the animal control officer shall immediately upon impoundment notify the owner by telephone or certified mail.

(4) An owner reclaiming an impounded dog or cat shall pay a fee of \$10 and \$3 for each day the animal has been impounded. Subsequent impounds occurring within twelve months are charged double.

(5) Any animal not reclaimed by its owner within three (3) working days shall become the property of the local government authority and shall be placed for adoption in a suitable home or humanely euthanized with sodium pentobarbital, Fp-3, or cooled and bottled carbon monoxide only so long as these methods do not conflict with the provisions of Tennessee Code Annotated, §§ 44-17-301 through 44-17-305 known as the "Dog and Cat Humane Death Act".

(6) In addition to, or in lieu of, impounding an animal found at large, the codes enforcement or animal control field officer may issue to the known owner of such animal an ordinance citation. Such citation shall impose upon the owner a penalty of \$10 that may, at the discretion of the animal owner, be paid to the City of Sparta, city court clerk in full satisfaction of the assessed penalty. In the event that such penalty is not paid within the time period prescribed, an ordinance summons shall be initiated either by the city court clerk, codes enforcement officer, or animal control field officer as provided in Tennessee Code Annotated, §§ 7-63-101 through 7-63-204. Upon conviction of a violation of this chapter, the owner shall be punished as provided in § 10-211 of this chapter.

(7) The owner of an impounded animal may also be proceeded against for violation of this chapter.

(8) The animal control field officer shall keep complete and accurate records of the care, feeding, veterinary treatment, and disposition of all animals impounded at the shelter. (1978 Code, § 3-205)

**10-206. Animal care.** (1) No owner shall fail to provide animals in their care with sufficient wholesome and nutritious food, water in sufficient

quantities, proper air, shelter space and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(2) No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(3) No owner of an animal shall abandon such animal.

(4) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or the local animal control officer. (1978 Code, § 3-206)

**10-207. Keeping of wild animals.** (1) No person shall own, possess, or have custody on his premises any wild or vicious animal for display, training, or exhibition purposes, whether gratuitously or for a fee.

(2) No person shall keep or permit to be kept any wild animal as a pet.

(3) The animal control officer shall have the power to release or order the release of any infant wild animal that is deemed capable of survival. (1978 Code, § 3-207)

**10-208. Animal waste.** The owner of every animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas, or private property. (1978 Code, § 3-208)

**10-209. Sterilization.** Sterilization shall be carried out according to the provisions of Tennessee Code Annotated, §§ 44-17-501 through 505, the Tennessee Spay/Neuter Law. (1978 Code, § 3-209, as replaced by Ord. #01-737, Sept. 2001)

**10-210. Enforcement.** The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by municipal authority. It shall be a violation of this chapter to interfere with an animal control officer in the performance of his/her duties. (1978 Code, § 3-210)

**10-211. Penalties.** Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor punishable according to the general penalty provisions of the Sparta Municipal Code except where lesser penalties may be specified otherwise in this chapter. (1978 Code, § 3-211)

## CHAPTER 3

### PIT BULLS

#### SECTION

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

**10-301. Definitions.** The words used in this code shall have the following meanings:

- (1) The bull terrier breed of dog; and
- (2) Staffordshire bull terrier breed of dog; and
- (3) The American pit bull terrier breed of dog; and
- (4) The American Staffordshire terrier breed of dog; and
- (5) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; and
- (6) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds. (as added by Ord. #05-795, Aug. 2005)

**10-302. Restrictions.** It shall be unlawful to keep, harbor, own or in any way possess a pit bull dog within the corporate limits of Sparta. Provided, that persons owning such dogs at the time this section was adopted, shall be allowed to keep them subject to the provisions of § 10-303. (as added by Ord. #05-795, Aug. 2005)

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

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

(2) Leash and muzzle. No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or

structures. In addition, all pit bull dogs on a leash outside the animals kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(3) Confinement. All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure and the structure must have a secure floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs must comply with zoning and building ordinances and regulations of the City of Sparta and shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(4) Confinement indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

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

(6) Insurance. All owners, keepers, harborers or possessors of pit bull dogs must provide proof to the city recorder of public liability insurance in a single incident amount of \$50,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from owning, possessing, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the city recorder.

(7) Identification photographs. All owners, keepers, possessors, or harborers of pit bull dogs must provide to the city recorder two color photographs of the dog clearly showing the color and approximate size of the animal.

(8) Reporting requirements. All owners, keepers, possessors, or laborers of pit bull dogs must within ten (10) days of the incident report the following information in writing to the city recorder as required hereinafter:

- (a) The removal from the city or death of a pit bull dog;
- (b) The birth of offspring of a pit bull dog;
- (c) The new address of a pit bull dog owner should the owner move within the corporate limits of the city. (as added by Ord. #05-795, Aug. 2005)

**10-304. Sale or transfer of ownership prohibited.** No person shall sell, barter or in any other way transfer possession of a pit bull dog to any

person within the City of Sparta unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the City of Sparta. (as added by Ord. #05-795, Aug. 2005)

**10-305. Animals born of registered dogs.** All offspring born of pit bull dogs within the City of Sparta must be removed from the City of Sparta within six (6) weeks of the birth of such animal. (as added by Ord. #05-795, Aug. 2005)

**10-306. Rebuttable presumptions.** There shall be a rebuttable presumption that any dog registered within the City of Sparta as a pit bull dog or any of those breeds defined by § 10-301 herein is in fact a dog subject to the requirements of this code. (as added by Ord. #05-795, Aug. 2005)

**10-307. Failure to comply.** It shall be unlawful for the owner, keeper, harbinger, or possessor of a pit bull dog within the City of Sparta to fail to comply with the provisions of this code. Any dog found to be the subject of a violation of this code shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City of Sparta. (as added by Ord. #05-795, Aug. 2005)

**10-308. Violations and penalties.** Any persons violating or permitting the violation of any provisions of this code shall be guilty of a misdemeanor, and upon conviction shall be subject to the fine as prescribed in the general penalty clause of the Sparta Municipal Code. Each day such violation shall continue constitutes a separate offense. Further, the city court may order the dog removed from the City of Sparta. Should the defendant refuse to remove the dog from the City of Sparta, the city judge shall find the defendant in contempt and order the immediate confiscation and impoundment of the animal. In addition to the foregoing penalties, any person who violates this code shall pay all expenses, including sums for shelter, food, handling, veterinary care and expert testimony, which are necessitated by the person's failure to abide by the provisions of this code. (as added by Ord. #05-795, Aug. 2005)

## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

1. OFFENSES AGAINST THE PERSON.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. FIREARMS, WEAPONS AND MISSILES.
4. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
5. OBSCENITY, MORALS.
6. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
7. LOITERING, ETC.
8. MISCELLANEOUS.
9. ADVERTISING SIGNS, HANDBILLS, ETC.

#### CHAPTER 1

### OFFENSES AGAINST THE PERSON

#### SECTION

11-101. Assault and battery.

**11-101. Assault and battery.** No person shall maliciously beat, strike, wound, or otherwise inflict violence on another; nor shall any person assault another with a lethal weapon, instrument or thing with intent to commit on the person of another any bodily injury where no considerable provocation appears or where the circumstances of the assault show malice. (1978 Code, § 10-201)

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<sup>1</sup>Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

## CHAPTER 2

### **OFFENSES AGAINST THE PEACE AND QUIET**

#### **SECTION**

11-201. Disturbing public gatherings or worship.

11-202. Noise--generally.

11-203. Enumerated.

11-204. Speechmaking in public places.

**11-201. Disturbing public gatherings or worship.** It shall be unlawful for any person to molest any lawful assemblage, or any congregation assembled for religious service, by making a noise, or by rude or indecent behavior or by the use of profane language. It shall be unlawful for any person to disturb any public performance given in the city, or otherwise interfere with the same by any disorderly conduct. (1978 Code, § 10-209)

**11-202. Noise--generally.** It shall be unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city. (1978 Code, § 10-215)

**11-203. Enumerated.** The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this code, but said enumeration shall not be deemed to be exclusive, namely:

(1) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) Radios, phonographs, etc. The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 P.M. and 7:00 A.M. in such a

manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(4) Yelling, shouting, 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 persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(5) Animals, birds, etc. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

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

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

(8) Defect in vehicle or load. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

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

(10) Construction or repairing of buildings. The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 A.M. and 6:00 P.M. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the codes enforcement officer, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the codes enforcement officer should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 P.M. and 7:00 A.M., upon



application being made at the time the permit for the work is awarded or during the progress of the work.

(11) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(12) Hawkers, peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and, quiet of the neighborhood.

(13) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(14) Metal rails, pillars and columns, transportation thereof. The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) Pile drivers, hammers, etc. The operation between the hours of 10:00 P.M. and 7:00 A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(16) Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise. (1978 Code, § 10-216)

**11-204. Speechmaking in public places.** It shall be unlawful for any person to make any public speech of any kind on the streets, alleys, or other public places in the city, without first having obtained a written permit from the chief of police, authorizing the use of said streets, alleys or other public places for such purpose. (1978 Code, § 10-223)

## CHAPTER 3

### FIREARMS, WEAPONS AND MISSILES

#### SECTION

- 11-301. Missiles; throwing.
- 11-302. Carrying weapons prohibited.
- 11-303. Exemptions.
- 11-304. Carrying knife with blade exceeding four inches.
- 11-305. Selling, disposing of dangerous weapons.
- 11-306. Selling, giving weapons to minor.
- 11-307. Unlawful weapons forfeited.
- 11-308. Disposition of confiscated weapons.
- 11-309. Firing, discharging weapon.

**11-301. Missiles; throwing.** Any person throwing stones, sticks, clubs, brickbats, or any other missile from a sling, by hand or otherwise within the city so as to endanger life, limb or property of any citizen, shall be guilty of a misdemeanor. (1978 Code, § 10-214)

**11-302. Carrying weapons prohibited.** Any person who shall carry in any manner whatever, with the intent to go armed, any razor, dirk, bowie knife or other knife of like form, shape or size, sword cane, ice pick, sling shot, blackjack, brass knucks, spanish stiletto, or a fountain pen pistol or gun, or like instrument containing a firing pin capable of shooting tear gas or pistol cartridges, or any pistol or revolver of any kind whatever, except the army or navy pistol which shall be carried openly in the hand, or any other dangerous weapon, shall be guilty of a misdemeanor. (1978 Code, § 10-245)

**11-303. Exemptions.** The provisions of § 11-302 shall not apply to any person employed in the army, air force, navy, or marine service of the United States, or to any officer or policeman while bona fide engaged in his official duties, in the execution of process, or while searching for or engaged in arresting criminals, nor to persons who may have been summoned by such officer or policeman in the discharge of his said duties, and in arresting criminals and transporting and turning them over to the proper authorities; nor shall said, provisions apply to any conductor of any passenger or freight train of any railroad while he is on duty. Persons who may be employed in the army, air force, navy, or marine service, as aforesaid, shall only carry such pistols as are prescribed by the army, air force and navy regulations. (1978 Code, § 10-246)

**11-304. Carrying knife with blade exceeding four inches.** Any person who shall carry in any manner whatever, with the intent to go armed,

any pocket knife with a blade exceeding four (4) inches in length, shall be guilty of a misdemeanor. (1978 Code, § 10-247)

**11-305. Selling, disposing of dangerous weapons.** It is a misdemeanor to sell or offer to sell, or to bring into this city for the purpose of selling, giving away, or otherwise disposing of any knife or other prohibited weapon mentioned, in § 11-304; and the person guilty thereof, for each knife or other prohibited weapon shall be guilty of a misdemeanor; provided however, sales shall not be unlawful if conducted in accordance with Tennessee Code Annotated, § 39-6-1704. (1978 Code, § 10-248)

**11-306. Selling, giving weapons to minor.** Any person who sells, lends, or gives to any minor a pistol, bowie knife, dirk, hunter's knife, or like dangerous weapon, except a gun for hunting, is guilty of a misdemeanor. (1978 Code, § 10-249)

**11-307. Unlawful weapons forfeited.** Whenever any person is arrested by any lawful officer of the city, and the said person is found to have on his person, or about him in an unlawful manner any unlawful weapon, such as bowie knife, blackjack, knuckles, sling shots, pistols, burglar's tools, or any other weapon or device which is denominated as unlawful under the statutes of this state or provisions of this code, which he is by law prohibited from carrying, the said unlawful weapon or weapons shall become the property of the city. (1978 Code, § 10-250)

**11-308. Disposition of confiscated weapons.** All weapons confiscated under § 11-307 may be destroyed or otherwise disposed of under the supervision and order of the city judge; but it is expressly provided that in no event, shall said weapon be returned to the person arrested, or any of his relatives or friends, and it is further expressly provided that they shall not be sold or offered for sale in any part of the state, except that after a finding of guilty of unlawful possession of such weapon, the city judge may after the final conclusion of the case order the same to be sold to business concerns who handle similar items in their normal course of business. (1978 Code, § 10-251)

**11-309. Firing, discharging weapon.** (1) Prohibited. It shall be unlawful to fire, shoot or discharge any rifle, pistol, shotgun, other firearm, bow and arrow, spring, air or "BB" gun, or other dangerous weapon without a permit from the chief of police.

(2) Exceptions. The provisions of this section shall not apply to persons employed in the army, air force, navy or marine service of the United States, or to any law enforcement officer engaged in his official duties, in the execution of process, or while searching for or engaged in arresting criminals, nor to persons who may have been summoned by such officer in the discharge

of his said duties, and in arresting criminals and transporting and turning them over to the proper authorities; nor shall said provisions apply to any conductor of any passenger or freight train of any railroad, while he is on duty. (1978 Code, § 10-252)

## CHAPTER 4

### TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

#### SECTION

11-401. Trespassing on trains.

11-402. Trespassing.

11-403. Malicious mischief.

11-404. Interference with traffic.

**11-401. Trespassing on trains.** It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1978 Code, § 10-226)

**11-402. Trespassing.** (1) Generally. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

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

(2) Trespassing on business parking lots. (a) Definitions. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates a different meaning:

(i) "Business parking lot." Any privately owned parking lot providing free parking during business hours adjacent to any store, office building, commercial building or industrial building, for the convenience of employees, customers or patrons.

(ii) "Person." Any person, firm, corporation or association.

(b) Trespassing after hours. No person shall enter or stay on any business parking lot at any time that staying upon or entering the lot is prohibited by the owner, as shown by a sign on the lot. No person shall place or leave any vehicle on any business parking lot at any such time.

(c) Trespassing by entry upon or remaining on a business parking lot without legitimate business purpose during business hours. No person shall enter or stay upon any business parking lot at any time during business hours without a legitimate purpose having to do with the conduct of a business or businesses served by the lot, including but not

necessarily limited to parking to shop at the business, pick up or delivery of merchandise, or pick up or delivery of employees, customers or patrons of the business. This section is only applicable if a sign is posted so indicating.

(d) Signs. The prohibitions set out in § 11-402(2)(b) and (c) shall be in effect at any business parking lot where the owner or person lawfully in charge has posted a sign or signs clearly stating the prohibitions. Signs must be placed so that they can be seen at all entrances or at prominent locations therein. Each sign invoking the prohibition of § 11-402(2)(b) may contain substantially the following language:

NO PARKING OR TRESPASSING BETWEEN

\_\_\_ P.M. AND \_\_\_ A.M.

Each sign invoking the prohibition of both sections may contain substantially the following language:

NO PARKING OR TRESPASSING PERMITTED AT ANY TIME  
EXCEPT ON BUSINESS.

NO PARKING OR TRESPASSING BETWEEN

\_\_\_ P.M. AND \_\_\_ A.M.

(e) Exceptions. The following uses of a parking lot shall not be violations of this section:

(i) Temporary entrance to a business parking lot in an emergency or to avoid an accident.

(ii) Entrance by a law enforcement officer in the course of duty.

(iii) Entrance by fire, ambulance or other emergency personnel and equipment, in the course of duty.

(iv) Entrance by an owner, tenant, or employee of any owner or tenant of any establishment served by the parking lot.

(v) Entrance by any city inspector in the course of duty.

(f) Special events. The owner or person in charge of any parking lot may grant temporary permission to use the lot in a manner normally prohibited, by posting temporary signs or posters to that effect and by notifying the police department of the existence and duration of any such special permission.

(g) Penalty. Any person violating any provisions of this section shall be fined not more than one hundred dollars (\$100.00) for each

offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (1978 Code, § 10-229)

**11-403. Malicious mischief.** It shall be unlawful and deemed to be malicious mischief for any person wilfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1978 Code, § 10-228)

**11-404. 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. (1978 Code, § 10-233)

## CHAPTER 5

### OBSCENITY, MORALS

#### SECTION

11-501. Disorderly conduct.

11-502. Indecent exposure.

11-503. Obscene books, pictures, etc.

11-504. Prostitution and assignation defined.

11-505. Engaging in, aiding, abetting prostitution.

11-506. Procuring female for prostitution; receiving money from prostitutes.

**11-501. Disorderly conduct.** It shall be unlawful for any person in the city to disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct or carriage; or by loud and unusual noises; or by unseemly, profane, obscene or offensive language; or by language calculated to provoke a breach of the peace; or by assaulting, striking or fighting another. It shall be unlawful for any person to permit any such conduct in, or upon, any house or premises under his management or control, so that others in the vicinity are disturbed thereby. It shall be unlawful for any person to set up or keep or permit upon his premises any person to be drunk, noisy or boisterous in his behavior to the annoyance of others. (1978 Code, § 10-208)

**11-502. Indecent exposure.** Any person found in a state of nudity, or making any indecent exposure of his or her body or any part or portion of his or her body shall be guilty of a misdemeanor. (1978 Code, § 10-212)

**11-503. Obscene books, pictures, etc.** If any person prints, publishes, imports, sells, offers for sale, or distributes, any book, pamphlet, ballad, or printed paper containing obscene language or obscene prints, pictures, or descriptions, manifestly tending to corrupt the morals, or introduce the same into any family, school, or place of education, or has the same in his possession for the purpose of loan, sale, exhibition, or circulation, or with intent to introduce the same into any family, school, or place of education, he shall be guilty of a misdemeanor. (1978 Code, § 10-217)

**11-504. Prostitution and assignation defined.** As used in §§ 11-505 through 11-506, the following words and terms shall have the following meanings:

(1) "Assignation" shall be construed to include the making of any appointment or engagement for prostitution or any act in furtherance of such appointment or engagement.



(2) "Prostitution" shall be construed to include the giving or receiving of the body for sexual intercourse for hire, or for licentious sexual intercourse without hire. (1978 Code, § 10-219)

**11-505. Engaging in, aiding, abetting prostitution.** It shall be unlawful to engage in, or to knowingly aid or abet in, prostitution or assignation or to procure or solicit or to reside in, enter, or remain in any vehicle, trailer, conveyance, place, structure, or building for the purpose of prostitution or assignation, or to keep or set up a house of ill fame, brothel or bawdy house, or to receive or direct any person for purposes of prostitution or assignation into any vehicle, trailer, conveyance, place, structure or building, or to permit any person to remain for the purpose of prostitution or assignation in any vehicle, trailer, conveyance, place, structure, or building, or to direct, take, or transport, or to offer or agree to take or transport, or to aid or assist in transporting or directing any person to any vehicle, conveyance, trailer, place, structure, or building, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution or assignation, or to lease or rent or contract to lease or rent any vehicle, trailer, conveyance, place, structure, or building, or part thereof, believing that it is intended to be used for any of the purposes herein prohibited, or to knowingly aid, abet, or participate in the doing of any of the acts herein prohibited. (1978 Code, § 10-220)

**11-506. Procuring female for prostitution; receiving money from prostitutes.** It shall be unlawful to procure a female inmate for a house of prostitution, or to cause, induce, persuade, or encourage by promise, threat, violence, or by any scheme or device, a female to become a prostitute or to remain in or become an inmate of a house of prostitution or to receive or give, or agree to receive or give any money or thing of value for procuring, or attempting to procure any female to become a prostitute or an inmate of a house of prostitution, or to knowingly accept, receive, levy, or appropriate any money or other thing of value without consideration from a prostitute or from the proceeds of any woman engaged in prostitution, or to knowingly aid, abet, or participate in the doing of any of the acts herein prohibited. (1978 Code, § 10-221)

## CHAPTER 6

### INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

#### SECTION

11-601. Escape.

11-602. Obstructing, disobeying officers.

11-603. Coercing people not to work.

**11-601. Escape.** It shall be unlawful for any person, while a prisoner in the jail, or otherwise in custody of and confined by the city or a city officer, to escape or attempt to escape or to assist others to escape or attempt to escape from such custody or confinement. (1978 Code, § 10-210)

**11-602. Obstructing, disobeying officers.** It shall be unlawful to obstruct or resist the chief of police or any police or law enforcement officer of the city in the discharge of his duties, or to fail or refuse to obey all lawful orders of the chief of police or any police or law enforcement officer of the city, or to refuse to aid or assist any such officer when lawfully summoned. (1978 Code, § 10-218)

**11-603. Coercing people not to work.** It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1978 Code, § 10-231)

## CHAPTER 7

### LOITERING, ETC.

#### SECTION

11-701. Loitering.

11-702. Loitering around banking institutions.

11-703. Curfew for minors.

11-704. Violation and penalty.

**11-701. Loitering.** (1) Purpose. The City of Sparta enacts this loitering section to address the problems of increasing crime, of obstruction of travel along public ways, of hindrance of ingress and egress to public and commercial buildings and of such other similar and related problems, and views this section as the most efficient means of pro-actively confronting these problems with limited enforcement officers and resources.

(2) Prohibited activities. It shall be unlawful for a person to "loiter" in violation of this section, provided that a person commits the act of "loitering" under this section if he or she:

(a) Remains or is in a place either at a time or in a manner that is not usual for law abiding individuals and that gives rise to a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity; or

(b) Remains, stands, sits, or lies upon any public or quasi public sidewalk, street, curb, crosswalk, walkway area, mall, or that portion of private property utilized for public use so as to unreasonably hinder or obstruct the ingress or egress of persons to a building open to the public, after first being warned of this section by a law enforcement officer, or after first being asked by a law enforcement officer to disperse, or where a "no loitering" sign or signs are posted.

(3) Enforcement guidelines. To assist in determining whether a justifiable and reasonable alarm or immediate concern is present in accordance with this section, it is relevant to consider whether the person potentially in violation of that section takes flight upon the appearance of law enforcement officers, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. If circumstances so permit, law enforcement officers should afford persons potentially violating this section an opportunity to dispel any alarm or immediate concern which otherwise would be warranted.

**11-702. Loitering around banking institutions.** (1) Purpose. The City of Sparta enacts this section to address the particular vulnerability to crime of law-abiding citizens utilizing ATM's, night deposit boxes, and other 24-hour banking conveniences during times when banking institutions are not open for their regular course of business.

(2) Prohibited activities. It shall be unlawful for any person to loiter, congregate or gather on the property of any banking institution during the part of the day in which such institution is not open to the public for carrying on substantially all of its banking functions if such loitering, congregating, or gathering could create a concern for the safety of person(s) using or likely to use the banking premises.

**11-703. Curfew for minors.** (1) Purpose. The City of Sparta enacts this section for each and all of the following purposes:

- (a) To combat the increase in juvenile crime committed during late-night hours;
- (b) To decrease the amount of crime committed against juveniles during late-night hours;
- (c) To reduce the peer pressure on minors to stay out during hours when they are most at risk to both commit crime and have crime committed against them;
- (d) To maximize the efficient use of enforcement officers in the field;
- (e) To assist parents in securing the safety of their children.

(2) Prohibited activities. It shall be unlawful for any minor under the age of sixteen (16) years to be or remain in or upon public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places, public buildings, or vacant lots or other unsupervised places, between the hours of 11:00 P.M. and 4:30 A.M. the following day, unless such minor comes within one of the following exceptions:

- (a) The minor is accompanied by a parent, legal guardian, or person with legal custody;
- (b) The minor is accompanied by an adult authorized by the parent, legal guardian, or person with legal custody to take the parent's place in accompanying the minor for a designated period of time, for a specific purpose, and within a specified area;
- (c) The minor is in direct route to or from a school sponsored activity, a religiously sponsored activity, or a civic organizationally sponsored activity;
- (d) The minor is in direct route to or from his/her place of employment immediately prior to or subsequent to such employment or is engaged in employment-related activities;
- (e) The minor is in a motor vehicle and engaged in interstate travel;
- (f) The minor is on the sidewalk of his residence or on the sidewalk of the residence of either a next-door neighbor, so long as the neighbor does not object to the minor's presence; or
- (g) The minor is involved in an emergency.

(3) Parental responsibility. It shall be unlawful for the parent, legal guardian, or person with legal custody of a minor under the age of sixteen (16) years to knowingly permit such minor to violate the terms of this section. If the parent, legal guardian or person with legal custody of a minor in violation of this section refuses to become responsible for the observance of this section, then it shall be the duty of the judge hearing the case to inquire into the familial conditions and circumstance of such minor and to cause the proper proceedings to be had as are authorized by law if necessary to secure the legally required parental care and safety of the minor.

**11-704. Violation and penalty.** Violation of this chapter shall be a civil offense punishable under the provisions of the general penalty clause of the Sparta Municipal Code.

## CHAPTER 8

### MISCELLANEOUS

#### SECTION

- 11-801. Buildings; damaging, defacing.
- 11-802. Cemeteries; damaging markers, monuments, plants, etc.
- 11-803. Gasoline tanks and pumps; location.
- 11-804. Sawdust and refuse from woodworking plants; disposal.
- 11-805. Abandoned refrigerators, etc.
- 11-806. Caves, wells, cisterns, etc.
- 11-807. Wearing masks.
- 11-808. Mechanical amusement devices; pinball machines.
- 11-809. Sunday motion pictures.

**11-801. Buildings; damaging, defacing.** Any person who shall damage or deface any public or private building or structure within the city shall be guilty of a misdemeanor. (1978 Code, § 10-202)

**11-802. Cemeteries; damaging markers, monuments, plants, etc.** Any person who wilfully and maliciously injures, defaces, removes, or destroys any tomb, monument, gravestone, or other memorial of the dead, or any fence or enclosure about the same; or wilfully cuts, breaks, removes, or injures any tree, shrub, or plant within such enclosure, or about the grave or tomb, is guilty of a misdemeanor. (1978 Code, § 10-203)

**11-803. Gasoline tanks and pumps; location.** It shall be unlawful to install or maintain any tanks or pumps for the storage or distribution of gasoline or other oil products on the streets or walks of any street or alley within three hundred (300) feet of the public square in the city. (1978 Code, § 10-211)

**11-804. Sawdust and refuse from woodworking plants; disposal.**  
(1) Required. A persons operating sawmills or other woodworking plants within the city are required to burn or remove from the city all sawdust and other refuse created by such mills.

(2) Supervision. The burning or removal of such sawdust or other refuse shall be under the supervision of the police and fire departments of the city, and shall be carried out under the rules and regulations set out by the police and fire departments. (1978 Code, § 10-222)

**11-805. Abandoned refrigerators, etc.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type

latching or locking door without first removing therefrom the latch, lock, or door. (1978 Code, § 10-227)

**11-806. Caves, wells, cisterns, etc.** It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1978 Code, § 10-232)

**11-807. Wearing masks.** It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1978 Code, § 10-234)

**11-808. Mechanical amusement devices, pinball machines.**

(1) Defined. The term "mechanical amusement device" shall mean any machine or device which, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally, for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical grab machines and all games, operations, or transactions similar thereto under whatever name they may be indicated.

(2) Minors prohibited. It shall be unlawful for any person under eighteen (18) years of age to play on any mechanical amusement device or for the owner, keeper or person in charge of any premises to allow any person under the age of eighteen (18) to play on any such device. (1978 Code, § 10-272)

**11-809. Sunday motion pictures.** (1) It shall be lawful for any motion picture show or theatre to operate in the city on Sundays between the hours of 1:00 P.M. and 6:00 P.M. and from 8:00 P.M. to 11:30 P.M.

(2) It shall be unlawful to operate any motion picture show or theatre in the city on Sundays except between the hours specified in subsection (1) hereof. (1978 Code, § 10-273)

## CHAPTER 9

### ADVERTISING SIGNS, HANDBILLS, ETC.

#### SECTION

- 11-901. Untrue, misleading or deceptive advertising generally.
- 11-902. Placing banners, festoons, etc., across streets.
- 11-903. Height, length of signs projecting over sidewalks.
- 11-904. Height of signs over alleys, highways, and streets.
- 11-905. Attaching signs to tree branches, street lights, utility poles.
- 11-906. Sound trucks regulated.
- 11-907. Handbills and bill posting--purposes.
- 11-908. Definitions.
- 11-909. Posting prohibited in certain places, on certain things.
- 11-910. Throwing, passing out handbills in public places.
- 11-911. Placing handbills in vehicles.
- 11-912. Distributing handbills on uninhabited, vacant premises.
- 11-913. Distributing handbills on posted property.
- 11-914. Distributing handbills on inhabited private premises.
- 11-915. Names, addresses to be shown on handbills.
- 11-916. Permits.
- 11-917. Exemptions.
- 11-918. Permitting prohibited matter on premises.
- 11-919. Offensive handbills, signs prohibited.

#### **11-901. Untrue, misleading or deceptive advertising generally.**

Any person who, with intent to sell, purchase or in any way dispose of, or to contract with reference to merchandise, securities, real estate, service, employment, money, credit or anything offered, by such person, directly or indirectly, to the public for sale, purchase, loan, distribution or the hire of personal services, or with intent to increase the consumption of or to contract with reference to any merchandise, real estate, securities, money, credit, loan, service or employment, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, or to make any loan, or makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in the city, in a newspaper, magazine or other publication, or in the form of a book, notice, handbill, poster, sign, bill, circular, pamphlet, letter, placard, card, label or over any radio or television station, or in any other way similar or dissimilar to the foregoing, an advertisement, announcement or statement of any sort regarding merchandise, securities, real estate, money, credit, service, employment or anything so offered for use, purchase, loan or sale, or the interest, terms or conditions upon which such loans will be made to the public, which advertisement contains any



assertion, representation or statement of fact which is untrue, misleading or deceptive, shall be guilty of a misdemeanor. (1978 Code, § 10-253)

**11-902. Placing banners, festoons, etc., across streets.** It shall be unlawful for any person to hang, place, stretched or to keep stretched, across any street of the city any banner, electric or floral festoon, or sign of any kind, without the written permission of the mayor. (1978 Code, § 10-254)

**11-903. Height, length of signs projecting over sidewalks.** Signs shall be at least nine (9) feet in the clear between the lowest point in any projection and the sidewalk immediately below and shall not occupy more than two-thirds(2/3) of the width of the sidewalk measured from the building, except that when such sign is fourteen (14) feet or more in clearance above a sidewalk immediately below, it may extend out to the full width of the sidewalk for a distance not to exceed ten (10) feet measured from the building, provided it clears all utility lines. (1978 Code, § 10-255)

**11-904. Height of signs over alleys, highways, and streets.** Except as otherwise provided in the zoning ordinance, signs over alleys, public highways and streets shall have a minimum of twenty (20) feet of clearance above the ground. (1978 Code, § 10-256)

**11-905. Attaching signs to tree branches, street lights, utility poles.** No sign shall be attached, erected, or permitted to hang from branches of trees or any street light or utility pole. (1978 Code, § 10-257)

**11-906. Sound trucks regulated.** It is unlawful for any person, as owner, employee, principal or agent, to operate, drive, or move along any of the public streets, avenues, alleys or thoroughfares of the city any truck, automobile, wagon or other vehicle, in which is operated any radio, phonograph, loudspeaker, or other mechanical sound producing or amplifying device, for the purpose of advertising or making any kind of announcement to the public, unless a permit has been issued the operator of such vehicle by the chief of police which permit shall designate the streets on which the vehicle shall operate and the time when operation is permissible. There shall be no fee required for such permit. (1978 Code, § 10-258)

**11-907. Handbills and bill posting--purposes.** To protect the people against the nuisance of and incident to the promiscuous distribution of handbills and circulars, particularly commercial handbills, as herein defined, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof and to that end the purposes of this chapter are specifically declared to be as follows:

(1) To protect the people against the unlawful activities or operation of dissolute persons of criminal habits or tendencies, representing themselves as solicitors, canvassers or handbill distributors, by requiring the registration of all such solicitors, canvassers or handbill distributors, together with the names of their employers.

(2) To protect local residents against trespassing by solicitors, canvassers or handbill distributors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not desire to receive handbills or advertising matter.

(3) To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills.

(4) To preserve to the people their constitutional right to receive and disseminate information not restricted under the ordinary rules of decency and good morals and public order, by distinguishing between the nuisance created by the promiscuous distribution of advertising and commercial circulars and their right to deliver noncommercial handbills to all who are willing to receive the same. (1978 Code, § 10-259)

**11-908. Definitions.** The following words, terms and phrases, when used in §§ 11-908 through 11-919, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Billposter" shall mean and include any person engaging in the business for hire of posting, fastening, nailing, or otherwise affixing any written, painted or printed matter of any kind, or other form or reproduction thereof (hereinafter called "sign"), containing a message or information of any kind whatsoever, to any outdoor billboard, or to or upon any bridge, fence, pole, post, sidewalk, tree, or to or upon the exterior of any structure except that the terms of this definition shall not apply to nor include any such sign mounted on, fastened to, or suspended from the outside of any building or other structure, in accordance with and authorized by any provisions of an ordinance or statute, either for any public convenience or use, or regulating the construction or use of so-called outdoor display signs, whether such display signs are illuminated or not.

(2) "Commercial handbill" shall mean and include any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:

(a) Which advertises for sale any merchandise, product, commodity, or thing; or

(b) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or

(c) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this city; or

(d) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor; or

(e) Which is not covered by the definition of sign in this section.

(3) "Handbill distributor" shall mean and include any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

(4) "Newspaper" shall mean and include any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public.

(5) "Noncommercial handbill" shall mean and include any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definitions of a sign, or a commercial handbill, or a newspaper.

(6) "Private premises" shall mean and include any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(7) "Public place" shall mean and include any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings. (1978 Code, § 10-260)

**11-909. Posting prohibited in certain places, on certain things.**

No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone, or any other portion or part of any public way or public place, or any lamp post, electric light, telegraph or telephone pole, or railway structure, hydrant, shade tree or tree-box, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct, or other public structure or building, or upon any pole, box or fixture of the fire alarm system, except such as may be authorized or required by the laws of the United States, or State of Tennessee, and the ordinances of the city. (1978 Code, § 10-261)

**11-910. Throwing, passing out handbills in public places.**

It shall be unlawful for any person to deposit, throw, scatter or cast any commercial handbill in or upon any public place within this city; and it shall also be unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; provided however, that it shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept such noncommercial handbill. (1978 Code, § 10-262)

**11-911. Placing handbills in vehicles.**

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any automobile or other vehicle. The provisions of this section shall not be deemed to prohibit the handling, transmitting or distributing of any noncommercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept the same. (1978 Code, § 10-263)

**11-912. Distributing handbills on uninhabited, vacant premises.**

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (1978 Code, § 10-264)

**11-913. Distributing handbills on posted property.**

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a

conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or to have their right of privacy disturbed, or to have any such handbills left upon such premises. (1978 Code, § 10-265)

**11-914. Distributing handbillson inhabited private premises.** No person shall distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or any other person then present in or upon such private premises; provided however, that in case of inhabited private premises which are not posted as provided in this chapter, the aforesaid person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited, private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be so used when so prohibited by federal postal laws or regulations. (1978 Code, § 10-266)

**11-915. Names, addresses to be shown on handbills.** It shall be unlawful for any person to distribute, deposit, scatter, hand out or circulate any commercial or noncommercial handbills in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the name and address of the following:

(1) The person who printed, wrote, compiled or manufactured the same.

(2) The person who caused the same to be distributed; provided however, that in case of a fictitious person or club, in addition to such fictitious name, the true names and addresses of the owners, managers or agents of the person sponsoring said handbill shall also appear thereon. (1978 Code, § 10-267)

**11-916. Permits.** (1) It shall be unlawful for any person to engage in the business of a billposter for hire or as a handbill distributor for hire, or for any person to distribute commercial or noncommercial handbills, without first complying with the terms of this chapter and all other relevant laws and regulations; provided, that nothing contained herein shall apply to any person advertising his business or activity upon his own premises, if such business or activity is regularly established at a definite location in the city, and also if a license has been obtained therefor, if such license be required under the terms of any applicable law or ordinance.

(2) Any person desiring to engage, as principal, either in the business of a billposter for hire, or in the business of distributing commercial or noncommercial handbills for hire, shall make application to and receive from

the chief or police or recorder a permit in the manner and for the period prescribed by the terms of this chapter and by all relevant provisions of this code. Such applicant shall make written application to the chief of police or recorder upon a form or forms provided for such purpose by the chief of police or recorder. Such form shall contain, among other things that may be required, the name, the business address, and a brief description of the nature of the business to be conducted by the applicant, the probable number of agents and employees so to be engaged, together with a request for a permit for the period for which the applicant seeks to engage in such business.

(3) Without excluding other just grounds for revocation, the board of mayor and aldermen may revoke any permit obtained under an application containing a false or fraudulent statement knowingly made by the applicant with intent to obtain a permit by means of false or fraudulent representations, or for violation of this chapter, or any other grounds specified by law. No permit issued under this chapter shall be transferable.

(4) Persons acting for permittees, as agents or employees, in the posting or distributing of any such signs or handbills, shall not be required to obtain a permit but each such person shall comply with each and all of the other provisions hereof, and be subject thereto. (1978 Code, § 10-268)

**11-917. Exemptions.** The provisions of this chapter shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this chapter. (1978 Code, § 10-269)

**11-918. Permitting prohibited matter on premises.** It shall be unlawful for the owner, lessee, occupant or agent of premises to permit any person, whether permitted or acting under the terms of this chapter, or otherwise, to post, affix or otherwise attach to any building, structure or fixture located upon such premises, whether such fixture be natural or artificial, any poster or handbill containing any matter prohibited by the terms of this chapter. (1978 Code, § 10-270)

**11-919. Offensive handbills, signs prohibited.** It shall be unlawful for any person to post, to hand out, distribute or transmit any sign, or any commercial or noncommercial handbill:

(1) Which may reasonably tend to incite riot or other public disorder, or which advocates disloyalty to or the overthrow of the Government of the United States or of this state by means of any artifice, scheme, or violence, or which urges any unlawful conduct, or encourages or tends to encourage a breach of the public peace or good order of the community; or

(2) Which is offensive to public morals or decency, or which contains blasphemous, obscene, libelous or scurrilous language. (1978 Code, § 10-271)

**TITLE 12****BUILDING, UTILITY, ETC. CODES****CHAPTER**

1. CODES ENFORCEMENT.
2. BUILDING CODE.
3. PLUMBING CODE.
4. ELECTRICAL CODE.
5. GAS CODE.
6. HOUSING CODE.
7. MODEL ENERGY CODE.
8. AMUSEMENT DEVICE CODE.
9. EXCAVATION AND GRADING CODE.
10. SWIMMING POOL CODE.
11. MECHANICAL CODE.
12. DANGEROUS BUILDINGS.

**CHAPTER 1****CODES ENFORCEMENT****SECTION**

- 12-101. Department established.
- 12-102. Duties of codes enforcement officer.
- 12-103. Qualifications of codes enforcement officer.
- 12-104. Assistance.
- 12-105. Board of codes appeals established; composition.
- 12-106. Term of office.
- 12-107. Proceedings of the board of codes appeals.
- 12-108. Hearings, appeals, notice.
- 12-109. Stay of proceedings.
- 12-110. Variations and modifications.
- 12-111. Decisions.

**12-101. Department established.** There is hereby established a department to be called the "Codes Enforcement Department" which shall be in charge of a codes enforcement officer. (1978 Code, § 4-101)

**12-102. Duties of codes enforcement officer.** The codes enforcement officer, to be designated by the board of mayor and aldermen, shall be responsible for the administration and enforcement of the following city codes and ordinances:

- (1) Standard Building Code.
- (2) Standard Housing Code.
- (3) Standard Plumbing Code.
- (4) Fire Prevention Code.
- (5) Sparta Municipal Zoning Ordinance.
- (6) National Electrical Code.
- (7) Standard Gas Code.
- (8) Standard Mechanical Code.
- (9) Standard Swimming Pool Code.
- (10) Standard Amusement Device Code.

Administration and enforcement of these codes and ordinances shall be in such manner as prescribed by each code or ordinance with modifications as may be deemed appropriate by the board of mayor and aldermen. (1978 Code, § 4-102)

**12-103. Qualifications of codes enforcement officer.** The codes enforcement officer shall possess: a knowledge of the principles and practices for enforcement of regulatory codes and ordinances pertaining to buildings, building construction and related activities; a broad knowledge of buildings and construction materials and systems and practical methods of building construction; the ability to read and interpret a wide variety of building material and construction standards; the ability to read and interpret complicated building plans and specifications; the ability to maintain adequate records of codes enforcement and related activities; and the ability to prepare or supervise the preparation of schedules, reports and correspondence. (1978 Code, § 4-103)

**12-104. Assistance.** The codes enforcement officer may be provided with the assistance of such other persons as the board of mayor and aldermen may direct. (1978 Code, § 4-104)

**12-105. Board of codes appeals established; composition.** There is hereby established a board to be called the board of codes appeals, which shall consist of five (5) members. Members serving on the board of zoning appeals shall be appointed by the board of mayor and aldermen to serve as the membership of the board of codes appeals. (1978 Code, § 4-105)

**12-106. Term of office.** Terms of membership shall be coterminous with each member's term on the board of zoning appeals. (1978 Code, § 4-106)

**12-107. Proceedings of the board of codes appeals.** The board of codes appeals shall adopt rules necessary to the conduct of its affairs, and in keeping with provisions of the housing, building, plumbing, and fire codes. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman,



may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The board of codes appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the board. (1978 Code, § 4-107)

**12-108. Hearings, appeals, notice.** Appeals to the board of codes appeals concerning interpretation or administration of this title may be taken by any person aggrieved or by any officer or bureau of the governing body of the city affected by any decision of the codes enforcement officer. Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided by the rules of the board, by filing with the codes enforcement officer and with the board of codes appeals a notice of appeal specifying the grounds thereof. The codes enforcement officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

The board of codes appeals shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

Notice of appeal shall be in writing and when filed, shall be accompanied by a fee of twenty-five dollars (\$25.00). (1978 Code, § 4-108)

**12-109. Stay of proceedings.** An appeal stays all proceedings in furtherance of the action appealed from unless the codes enforcement officer from whom the appeal is taken certifies to the board of codes appeals after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed, other than by a restraining order which may be granted by the board of codes appeals or by a court of record on application, on notice to the codes enforcement officer from whom the appeal is taken and on due cause shown. (1978 Code, § 4-109)

**12-110. Variations and modifications.** The board of codes appeals, when so appealed to and after a hearing, may vary the application of any provision of the above named codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of the codes or public interest, or when in its opinion the interpretation of the codes enforcement official should be modified or reversed.

A decision of the board of codes appeals to vary the application of any provision of these codes or to modify an order of codes enforcement officer shall specify in what manner such variation or modification is made, the conditions upon which it is made and the reasons therefor. (1978 Code, § 4-110)

**12-111. Decisions.** Every decision of the board of codes appeals shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. It shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the codes enforcement officer, and shall be open to public inspection; a certified copy shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the codes enforcement officer for two weeks after filing.

The board of codes appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

If a decision of the board of codes appeals reverses or modifies a refusal, order, or disallowance of the codes enforcement officer, or varies the application or any provision of the codes, the codes enforcement officer shall immediately take action in accordance with such decision. (1978 Code, § 4-111)

## CHAPTER 2

### BUILDING CODE<sup>1</sup>

#### SECTION

- 12-201. Building code adopted.
- 12-202. Appendices to the building code adopted.
- 12-203. Terms modified.
- 12-204. Other modifications.
- 12-205. Available in recorder's office.
- 12-206. Violations.
- 12-207. Schedule of permit fees.
- 12-208. Penalties.

**12-201. Building code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code<sup>2</sup>, 2003 edition and developed and published by International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (1978 Code, § 4-201, as amended by Ord. #95-682, Jan. 1996, modified, and Ord. #05-796, Dec. 2005)

**12-202. Appendices to the building code adopted.** The following appendices to the 2003 International Building Code are hereby adopted and incorporated as part of the Sparta Municipal Code by reference:

APPENDIX D. . . . . Fire Districts  
(Ord. #95-682, Jan. 1996, modified, as amended by Ord. #05-796, Dec. 2005)

**12-203. Terms modified.** Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed

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<sup>1</sup>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.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4057 W. Flossmoor Rd., Country Club Hills, IL 60478-5795.

to be a reference to the board of mayor and aldermen. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean the codes enforcement officer. (1978 Code, § 4-202)

**12-204. Other modifications.** (1) The codes enforcement officer shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must:

(a) Be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure;

(b) Use construction materials and utility equipment that are resistant to flood damage; and

(c) Use construction methods and practices that will minimize flood damages.

(2) The provisions of section 112 of the 2003 International Building Code, Construction Board of Adjustment and Appeals, are excluded from adoption under the provisions of this chapter. (1978 Code, § 4-204, as amended by Ord. #95-682, Jan. 1996, and Ord. #05-796, Dec. 2005)

**12-205. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502(a), 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. (1978 Code, § 4-205)

**12-206. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1978 Code, § 4-206)

**12-207. Schedule of permit fees.**

Total Valuation	Fee
\$1000 and less	No fee, unless inspections required, in which case a \$15.00 fee for each inspection shall be charged.
\$1000 to \$50,000	\$15.00 for the first \$1000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.

\$50,000 to \$100,000	\$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00
\$100,000 to \$500,000	\$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00
\$500,000 and up	\$1,660.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.
Moving Fee	For the moving of any building or structure, the fee shall be \$100.00
Demolition Fee	For the demolition of any building or structures, the fee shall be: 1 up to 100,000 cu ft - \$50.00 100,000 cu ft and over - \$0.50/1,000 cu ft

(as added by Ord. #05-796, Dec. 2005)

**12-208. Penalties.** Where work for which a permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein. (as added by Ord. #05-796, Dec. 2005)

## CHAPTER 3

### PLUMBING CODE<sup>1</sup>

#### SECTION

- 12-301. Plumbing code adopted.
- 12-302. Appendices to the plumbing code adopted.
- 12-303. Modifications.
- 12-304. Available in recorder's office.
- 12-305. Violations.

**12-301. Plumbing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the City of Sparta, when such plumbing is or is to be connected with the municipal water or sewerage system, the International Plumbing Code,<sup>2</sup> 2003 edition and developed and published by International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1978 Code, § 4-301, as amended by Ord. #95-682, Jan. 1996, modified, and Ord. #05-796, Dec. 2005)

**12-302. Appendices to the plumbing code adopted.** The following appendices to the 2003 International Plumbing Code are hereby adopted and incorporated as a part of the Sparta Municipal Code by reference:

#### APPENDIX A. . . . . Plumbing Permit Fee Schedule

The following fees and amounts are applicable:

##### Permit issuance

- 1. For issuing each permit. . . . . \$10.00

##### Unit Fee Schedule

- 1. For each plumbing fixture. . . . . \$ 2.50
- 2. For each building & trailer park sewer. . . . . \$ 5.00

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4057 W. Flossmoor Rd., Country Club Hills, IL 60478-5795.

3.	Rainwater systems per drain inside. . . . .	\$ 2.50
4.	Each cesspool. . . . .	\$ 5.00
5.	Each private sewage disposal system. . . . .	\$10.00
6.	Each water heater and/or vent. . . . .	\$ 2.50
7.	Each industrial waste pretreatment interceptor. . . .	\$ 2.50
8.	Installation, alteration or repair of water piping and/or water treating equipment, each. . . .	\$ 2.50
9.	Repair or alteration of drainage or vent piping, each. . . . .	\$ 2.50
10.	Each lawn sprinkler system or any other meter. . . .	\$ 2.50
11.	Atmospheric-type vacuum breakers not included in Item 2: 1-5. . . . .	\$ 2.50
12.	Each backflow protective device other than. . . . .	\$ 2.50
APPENDIX B. . . . . Rates of Rainfall for Various Cities		
APPENDIX C. . . . . Gray Water Recycling Systems		
APPENDIX D. . . . . Degree Day & Design Temperatures for cities in the United States		
APPENDIX E. . . . . Sizing of Water Piping System		
APPENDIX F. . . . . Structural Safety		
APPENDIX G. . . . . Vacuum Drainage System (Ord. #95-682, Jan. 1996, modified, as amended by Ord. #05-796, Dec. 2005)		

**12-303. Modifications.** Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen of the City of Sparta.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the codes enforcement officer. (1978 Code, § 4-302)

**12-304. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502(a), one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1978 Code, § 4-303)

**12-305. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1978 Code, § 4-304)

## CHAPTER 4

### ELECTRICAL CODE<sup>1</sup>

#### SECTION

- 12-401. Electrical code adopted.
- 12-402. Available in recorder's office.
- 12-403. Permit required for doing electrical work.
- 12-404. Violations.
- 12-405. Enforcement.
- 12-406. Disconnecting dangerous conditions.
- 12-407. Fees.

**12-401. Electrical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,<sup>2</sup> 2002 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1978 Code, § 4-401, as amended by Ord. #95-682, Jan. 1996; Ord. #00-725, May 2000; and Ord. #05-796, Dec. 2005)

**12-402. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502(a), one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1978 Code, § 4-402)

**12-403. Permit required for doing electrical work.** No electrical work shall be done within this municipality until a permit therefor has been issued by the municipality. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1978 Code, § 4-403)

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<sup>1</sup>Municipal code references

Fire protection, fireworks and explosives: title 7.

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



**12-404. Violations.** It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1978 Code, § 4-404)

**12-405. Enforcement.** The codes enforcement officer shall enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1978 Code, § 4-405)

**12-406. Disconnecting dangerous conditions.** The codes enforcement officer shall have the right to disconnect all dangerous and/or defective wiring systems, in or upon any building, structure, or premises, from its source of current, and it shall be unlawful for any individual, firm or corporation to reconnect the same until such systems shall have been made safe and been approved by the codes enforcement officer or his designated representatives. (1978 Code, § 4-406)

**12-407. Fees.** The codes enforcement officer shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143 for electrical inspections by deputy inspectors of the state fire marshal. (1978 Code, § 4-407, as amended by Ord. #95-682, Jan. 1996)

## CHAPTER 5

### GAS CODE<sup>1</sup>

#### SECTION

- 12-501. Gas code adopted.
- 12-502. [Deleted.]
- 12-503. Modifications.
- 12-504. Available at city hall.
- 12-505. Non-liability.

**12-501. Gas code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-509, and for the purpose of securing the beneficial interests and purposes of the International Fuel Gas Code which are public safety, health, and general welfare by regulating the installation and maintenance of all gas piping and appliances; the International Fuel Gas Code,<sup>2</sup> 2003 edition and developed and published by International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the gas code. (1978 Code, § 4-501, as amended by Ord. #95-682, Jan. 1996, modified, and Ord. #05-796, Dec. 2005)

**12-502. [Deleted.]** (Ord. #95-682, Jan. 1996, as deleted by Ord. #05-796, Dec. 2005)

**12-503. Modifications.** Wherever the gas code refers to the "Gas Inspection Department," and the "Gas Official," it shall be deemed to be a reference to the codes enforcement department and codes enforcement officer of the City of Sparta. (1978 Code, § 4-502)

**12-504. Available at city hall.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502(a), one (1) copy of the gas code has been placed on file at city hall and shall be kept there for the use and inspection of the public. (1978 Code, § 4-503)

**12-505. Non-liability.** This chapter shall not be construed as imposing upon the municipality any liability or responsibility for damages to any person

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<sup>1</sup>Municipal code reference

Gas system administration: title 19, chapter 2.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4057 W. Flossmoor Rd., Country Club Hills, IL 60478-5795.

injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the municipality, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the codes enforcement officer. (1978 Code, § 4-512)

## CHAPTER 6

### HOUSING CODE

#### SECTION

12-601. Housing code adopted.

12-602. Modifications.

12-603. Available in recorder's office.

12-604. Violations.

**12-601. Housing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Property Maintenance Code,<sup>1</sup> 2003 edition, developed and published by International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (1978 Code, § 4-601, as amended by Ord. #95-682, Jan. 1996, modified, and Ord. #05-796, Dec. 2005)

**12-602. Modifications.** Wherever the housing code refers to the "Building Official" it shall mean the codes enforcement officer. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the board of mayor and aldermen. Section 108 of the housing code is deleted. (1978 Code, § 4-602)

**12-603. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the housing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1978 Code, § 4-603, modified)

**12-604. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1978 Code, § 4-604)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4057 W. Flossmoor Rd., Country Club Hills, IL 60478-5795.

## CHAPTER 7

### MODEL ENERGY CODE<sup>1</sup>

#### SECTION

- 12-701. Model energy code adopted.
- 12-702. Modifications.
- 12-703. Available in recorder's office.
- 12-704. Violation and penalty.

**12-701. Model energy code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the International Energy Conservation Code<sup>2</sup> 2003 edition developed and published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (as amended by Ord. #05-796, Dec. 2005)

**12-702. Modifications.** Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of Sparta. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

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<sup>1</sup>State law reference

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

Municipal code references

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

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4057 W. Flossmoor Rd., Country Club Hills, IL 60478-5795.

**12-703. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-704. Violation and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 8

### AMUSEMENT DEVICE CODE<sup>1</sup>

#### SECTION

12-801. Amusement device code adopted.

**12-801. Amusement device code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation, construction, alteration, repair, removal, operation and use of amusement rides and devices. The Standard Amusement Device Code<sup>2</sup>, 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the amusement device code. (1978 Code, § 4-801(3), modified)

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<sup>1</sup>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.

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

**CHAPTER 9****EXCAVATION AND GRADING CODE<sup>1</sup>****SECTION**

12-901. Excavation and grading code adopted.

12-902. Modifications.

12-903. Available in recorder's office.

12-904. Violations.

**12-901. Excavation and grading code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-509, and for the purpose of regulating and controlling excavation, grading and earthwork construction, including earth fills and embankments within the municipality of Sparta, Tennessee, the Standard Excavation and Grading Code<sup>2</sup>, 1975 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the excavation and grading code. (1978 Code, § 4-1001)

**12-902. Modifications.** Whenever the excavation and grading code refers to the "Building Official," "City Engineer" or "Engineering Department," or "Inspector" it shall mean the codes enforcement officer. (1978 Code, § 4-1002)

**12-903. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502 one (1) copy of the standard excavation and grading code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1978 Code, § 4-1003, modified)

**12-904. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the standard excavation and grading code as herein adopted by reference and modified. (1978 Code, § 4-1004)

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<sup>1</sup>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.

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



**CHAPTER 10****SWIMMING POOL CODE**<sup>1</sup>**SECTION**

12-1001. Swimming pool code adopted.

**12-1001. Swimming pool code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516, and for the purpose of setting standards for the design, construction, or installation, alteration, repair or alterations of swimming pools, public or private and equipment related thereto. The Standard Swimming Pool Code<sup>2</sup>, 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the swimming pool code. (1978 Code, § 4-801(2), as amended by Ord. #95-682, Jan. 1996, modified)

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<sup>1</sup>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.

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

**CHAPTER 11****MECHANICAL CODE**<sup>1</sup>**SECTION**

- 12-1101. Mechanical code adopted.  
12-1102. Appendices to the mechanical code adopted.  
12-1103. Modifications to the mechanical code.

**12-1101. Mechanical code adopted.** Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516 and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the International Mechanical Code<sup>2</sup>, 2003 edition, as developed and published by International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (1978 Code, § 4-801(1), as amended by Ord. #95-682, Jan. 1996, and Ord. #05-796, Dec. 2005)

**12-1102. Appendices to the mechanical code adopted.** The following appendices to the 2003 International Mechanical Code are hereby adopted and incorporated by reference as part of this code:  
APPENDIX A . . . Combustion Air Openings and Chimney Connector Pass-Throughs  
APPENDIX B . . . Schedule of Permit Fees  
APPENDIX C . . . Procedures for Determining Thermal Resistance (R) Values For Air Distribution  
(Ord. #95-682, Jan. 1996, modified, as amended by Ord. #05-796, Dec. 2005)

**12-1103. Modifications to the mechanical code.** (1) Wherever the mechanical code refers to the "Mechanical Department," and the "Mechanical

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<sup>1</sup>Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 4057 W. Flossmoor Rd., Country Club Hills, IL 60478-5795.

Official," it shall be deemed to be a reference to the Codes Enforcement Department and Codes Enforcement Officer of the City of Sparta.

(2) The provisions of section 109 of the International Mechanical Code 2003 edition, Means of Appeals, are excluded from adoption under the provisions of this chapter. (1978 Code, § 4-803, as amended by Ord. #95-682, Jan. 1996, and Ord. #05-796, Dec. 2005)

## CHAPTER 12

### DANGEROUS BUILDINGS

#### SECTION

- 12-1201. Dangerous buildings defined.
- 12-1202. Standards for repair, vacation or demolition.
- 12-1203. Dangerous buildings--nuisances.
- 12-1204. Duties of the building inspector.
- 12-1205. Duties of the board of mayor and aldermen.
- 12-1206. Violations--penalty for disregarding notices or orders.
- 12-1207. Duties of the city attorney.
- 12-1208. Emergency cases.
- 12-1209. When the owner is absent from the city.
- 12-1210. Administrative liability.
- 12-1211. Duties of the fire and police departments.

**12-1201. Dangerous buildings defined.** All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

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

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

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

(4) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City of Sparta, Tennessee.

(5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living within.

(6) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of rapid and orderly movement of human beings in an emergency situation.

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(9) Those which because of their conditions are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the City of Sparta, Tennessee.

(10) Those buildings existing in violation of any provision of the building code of this city, or any provision of the fire prevention code, or any other ordinance of the city. (1978 Code, § 4-901)

**12-1202. Standards for repair, vacation or demolition.** The following standards shall be followed in substance by the building inspector and/or the board of mayor and aldermen in ordering repair, vacation, or demolition:

(1) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter it shall be ordered repaired.

(2) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.

(3) In any case where a "dangerous building" is fifty percent (50%) damaged, destroyed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it shall no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this chapter or any other ordinance of the City of Sparta or statute of the State of Tennessee, it shall be demolished. (1978 Code, § 4-902)

**12-1203. Dangerous buildings--nuisances.** All "dangerous buildings" within the terms of § 12-1201 are hereby declared to be public nuisances, and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided. (1978 Code, § 4-903)

**12-1204. Duties of the building inspector.** The building inspector shall:

(1) When in his opinion he considers it reasonably necessary and at reasonable intervals, inspect or cause to be inspected all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a "dangerous building" within the terms of § 12-1201.

(2) Inspect any building, wall or structure reported (as hereinafter provided) by the fire or police departments of the city as probably existing in violation of the terms of this chapter.

(3) At reasonable times, inspect any building known to him or believed by him to be in a dangerous condition and he may at all reasonable times inspect any or all buildings in any section of this city to determine whether they are "dangerous buildings" within the terms of § 12-1201.

(4) Notify in writing the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in said building as shown by the tax records in the assessor's office of this city and the land records of the register of deeds of White County, Tennessee, and any building found by him to be a "dangerous building" within the standards set forth in § 12-1201, that:

(a) The owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this chapter;

(b) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession;

(c) The mortgagee, agent, or other person having an interest in said building as shown by the land records of the register of deeds of White County, Tennessee and/or the tax records in the tax assessor's office for the City of Sparta, Tennessee, may at his own risk repair, vacate, or demolish said building or have such work or act done; provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding sixty (60) days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

(5) Set forth, in the notice provided for in subsection (4) hereinabove, a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building," and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding sixty (60) days, as is reasonable.

(6) Report to the board of mayor and aldermen any non-compliance with the "notice" provided for in subsections (4) and (5) hereinabove.

(7) Appear at all hearings conducted by the board of mayor and aldermen and testify as to the condition of the "dangerous building."

(8) Place a notice on all "dangerous buildings" reading as follows: "This building has been found to be a dangerous building by the codes enforcement officer. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given to the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in this building as shown by the records in the tax assessor's office of this city and the land records in the register's office of White County, Tennessee. It is unlawful to remove this notice until such notice is complied with." (1978 Code, § 4-904)

**12-1205. Duties of board of mayor and aldermen.** The board of mayor and aldermen shall:

(1) Upon receipt of a report of the building inspector as provided for in § 12-1204(6) herein, give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the land records of the register of deeds of White County, Tennessee, and/or the tax records in the tax assessor's office of the city, to appear before the board upon the date specified in the notice to show cause why any building or structure reported to be a "dangerous building" should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building inspector's notice provided for herein by § 12-1204(5).

(2) Hold a hearing and hear such testimony as the building inspector, owner, occupant, mortgagee, lessee, or other person or persons interested therein shall offer relative to the "dangerous building."

(3) Make written findings of fact from the testimony offered pursuant to subsection (2) as to whether or not the building in question is a "dangerous building" within the terms of § 12-1201.

(4) Issue an order, based upon the findings of fact made pursuant to subsection (3), commanding the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the land records of the register of deeds of White County, Tennessee, and/or the tax records of the tax assessor's office of this city, to repair, vacate, or demolish any building found to be a "dangerous building" within the terms of this chapter and provided that any person so notified, shall have the privilege of either vacating or repairing said "dangerous building" or any person having an interest in said building, may demolish said "dangerous building" at his own risk to prevent the acquiring of a lien against the land upon which said "dangerous building" stands.

(5) If the owner, occupant, mortgagee or lessee fails to comply with the order provided for in subsection (4) hereof within a time period designated by the board, the board may cause such building or structure to be repaired, vacated or demolished, as the facts may warrant, under the standards hereinbefore provided for in § 12-1202, and may with the assistance of the city attorney cause the costs of such repair, vacation or demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be added to the tax rolls as an assessment, or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in an action or suit at law or in equity against the owner; provided, that in cases where such procedure is desirable and any delay caused thereby will not be dangerous to the health, morals, safety or general welfare of the people of this city, the board may notify the city attorney to take such legal action as is necessary to force the owner to make all necessary repairs or demolish the building.

(6) Report to the city attorney the names of all persons not complying with the terms of the order provided for in § 12-1205(4) hereof, together with

appropriate instructions to the city attorney as to the procedure desired by the board to obtain compliance. (1978 Code, § 4-905)

**12-1206. Violations--penalty for disregarding notices or orders.**

The owner of any "dangerous building" who shall fail to comply with any notice or order to repair, vacate, or demolish said building when such notice or order is given by any person authorized by this chapter to give such notice or order shall be guilty of a misdemeanor and upon conviction thereof shall be fined under the general penalty clause of this code.

Any occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair said building in accordance with any notice given as provided for in this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined under the general penalty clause of this code.

Any person removing the notices provided for in § 12-1204(8) hereof shall be guilty of a misdemeanor and upon conviction thereof shall be fined under the general penalty clause of this code. (1978 Code, § 4-906)

**12-1207. Duties of the city attorney.** The city attorney shall:

(1) Prosecute all persons failing to comply with the terms of the notices provided for herein in § 12-1204(4) and (5) and the order provided for in § 12-1205(4).

(2) Appear at all hearings before the board in regard to "dangerous buildings" when requested to do so.

(3) Bring suit to collect all municipal liens, assessments, or costs incurred by the board in repairing or causing to be vacated or demolished any "dangerous buildings."

(4) Take such other legal action as is necessary to directed by the board. (1978 Code, § 4-907)

**12-1208. Emergency cases.** In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a "dangerous building" as defined herein is immediately repaired, vacated, or demolished, the building inspector shall report such facts to the board and the board may and shall have the right to cause the immediate repair, vacation, or demolition of such "dangerous building." The costs of such emergency repair, vacation or demolition of such "dangerous building" shall be collected in the manner provided in § 12-1205(5) hereof. (1978 Code, § 4-908)

**12-1209. When the owner is absent from the city.** In cases, except in emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the city all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee, or to any other persons having an interest in said building or lands as shown by the land records in the register's office of White County, Tennessee, and/or the tax records in the tax



assessor's office of the city, to the last known address of each and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service. In cases where desirable the notices and order provided for herein may be served on said parties in the same manner as a summons is served in the courts of general jurisdiction. (1978 Code, § 4-909)

**12-1210. Administrative liability.** No officer, agent or employee of the City of Sparta, Tennessee, shall render himself/herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties under this chapter. Any suit brought against any officer, agent or employee of the City of Sparta, as a result of any act required or permitted in the discharge of his/her duties hereunder shall be defended by the city attorney as necessary until the final determination of the proceeding therein. (1978 Code, § 4-910)

**12-1211. Duties of the fire and police departments.** The employees of the fire and police departments shall make a report in writing to the building inspector of all buildings or structures which are or may be, or are suspected to be "dangerous buildings" within the terms of this chapter. Such reports must be delivered to the building inspector and/or the board within twenty-four (24) hours of the discovery of such buildings by any employee of the fire or police department. (1978 Code, § 4-911)



## **TITLE 13**

### **PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>**

#### **CHAPTER**

1. MISCELLANEOUS.
2. JUNKYARDS.
3. RODENT CONTROL.
4. TREE MAINTENANCE.

#### **CHAPTER 1**

#### **MISCELLANEOUS**

#### **SECTION**

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. House trailers.
- 13-106. Notice to abate required.
- 13-107. Failure to comply with notice to abate; municipality to do work.
- 13-108. Collection of costs when work done by municipality.
- 13-109. Costs constitute lien.
- 13-110. Throwing dead animals, filth, offal into waterways, ponds.
- 13-111. Removal of dead livestock.
- 13-112. Health and sanitation nuisances.
- 13-113. Open burning prohibited.
- 13-114. Exceptions to prohibition - without permission.
- 13-115. Exceptions to prohibition - with permission.
- 13-116. Open burning conditions - with permission.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the City of Sparta. (1978 Code, § 8-101)

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<sup>1</sup>Municipal code references  
Animal control: title 10.  
Littering streets, etc.: § 16-104.

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1978 Code, § 8-105)

**13-103. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it. (1978 Code, § 8-106)

**13-104. Weeds.** It shall be unlawful for the owner of any lot, place, or area within the municipality, or the agent of such owner, to permit on such lot, place or area, or upon any sidewalk abutting same, any weeds, grass, or deleterious, unhealthful growths, trash, debris, refuse, discarded or noxious matter, that may be growing, lying or located thereon. (1978 Code, § 8-107)

**13-105. House trailers.**<sup>1</sup> It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the codes enforcement officer, as provided for in the building code. (1978 Code, § 8-104)

**13-106. Notice to abate required.** The mayor or his duly authorized representative is hereby authorized and empowered to notify, in writing, the owner of any such lot, place or area within the municipality, or the agent of such owner, to cut, destroy and/or remove any such weeds, grass, or deleterious, unhealthful growths, trash, debris, discarded or noxious matter, found growing, lying or located on such owner's property, or upon the sidewalk abutting same; provided that such written notice shall be by registered mail, addressed to said owner, or agent of said owner, at his last known address. In the event said lot, place or area within the municipality is owned by two (2) or more co-owners, the written notice need only be made to one of the said co-owners. (1978 Code, § 8-108)

**13-107. Failure to comply with notice to abate; municipality to do work.** Upon the failure, neglect, or refusal of any such owner, or agent of such owner to cut, destroy and/or remove such weeds, grass, or deleterious growths, trash, debris, refuse, discarded or noxious matter, growing, lying, or located

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<sup>1</sup>Municipal code reference  
Flea markets: title 9, chapter 7.

upon such owner's property, or upon the sidewalk abutting same, within ten (10) days after receipt of the written notice provided for in the preceding section, or within ten (10) days after the date of such notice, in the event the same is returned to the municipality by the post office because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the mayor or his duly authorized representative, is hereby authorized and empowered to order by municipal forces or by contract and to pay for the cutting, destroying and/or removal of such weeds, grass, or deleterious, unhealthful growths, trash, debris, refuse discarded or noxious matter. (1978 Code, § 8-109)

**13-108. Collection of costs when work done by municipality.**

Whenever the mayor or his duly authorized representative has used municipal labor or municipal or privately owned equipment, or has paid a contractor for the cutting, destroying or removal of such weeds, grass, deleterious, unhealthful growths, trash, debris, refuse, discarded or noxious matter, as set forth in the preceding section, the actual cost of furnishing municipal labor and the equipment, or pay to said contractor, plus accrued interest at the rate of six percent (6%) per annum from the date of the completion of said work, shall be charged to the owner of such property. (1978 Code, § 8-110)

**13-109. Costs constitute lien.** The costs incurred by the municipality as provided in this chapter, plus interest, shall constitute a lien on the property on which the work was done. (1978 Code, § 8-111)

**13-110. Throwing dead animals, filth, offal into waterways, ponds.**

It shall be unlawful to throw or place any dead animal or animals, filth or offal into any river, pond, or watercourse within the municipality. (1978 Code, § 8-112)

**13-111. Removal of dead livestock.** If any horse, mule, cattle, pig, hog, goat or other livestock dies or is found dead on any street, alley or vacant lot within the municipality, and the owner of such animal is unknown, it shall be the duty of the police to have said dead animal removed beyond the corporate limits at the expense of the municipality. If the owner of such animal is known, it shall be the duty of the police to notify him to have the dead animal removed out of the municipality, and if the owner fails, refuses or neglects to forthwith remove such animal it shall be the duty of the police to have it removed at the expense of said owner. (1978 Code, § 8-113)

**13-112. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection

therewith, or to allow the accumulation or creation of unwholesome and offensive matter of the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1978 Code, § 8-114)

**13-113. Open burning prohibited.** After the effective date of these regulations, no person shall cause, suffer, allow, or permit open burning of any kind except as specifically allowed in this chapter. (1978 Code, § 8-118)

**13-114. Exceptions to prohibition - without permission.** Open burning, as listed below, may be conducted without permission subject to specified limitations and provided further that no public nuisance is or will be created by such open burning.

Fire used for cooking food, ceremonial or recreation purposes, including barbecues and outdoor fireplaces. This exception does not include commercial food preparation facilities and their operation.

This grant of exemption shall in no way relieve the person responsible for such burning from the consequences or the damages, injuries, or claims resulting from such burning, or of the responsibility of obtaining any other permit from any other agency. (1978 Code, § 8-119)

**13-115. Exceptions to prohibition - with permission.** Open burning may be allowed in the Sparta city limits when permission has been obtained from the fire chief or other person that may be designated by the city administrator for the following purposes prior to the initiation of the open burning and provided the proposed burning will not cause any detriment to public health and that no land, air, or water traffic hazard is created.

(1) Open burning may be conducted to clear land of materials grown on that land where that land is being used for residential or agricultural purposes.

(2) Open fires may be set for the training and instruction of public or private fire-fighting personnel.

(3) Comfort heating on construction jobs provided the burning is in suitable metal containers and only untreated wood is burned. This is not to be construed to allow burning of painted or chemically treated wood for comfort heating. (1978 Code, § 8-120)

**13-116. Open burning conditions - with permission.** The following conditions shall apply for all open burning that is allowed under the provisions of this section with permission having been granted.

(1) All open burning shall be conducted during daylight hours provided that burning may continue until all materials are consumed and further provided, that the burning is properly supervised.

(2) No open burning shall be allowed under adverse meteorological or weather conditions as determined by the fire chief.

(3) It has been determined that there is no other practical or safe method of disposal for materials proposed to be burned.

Permission to burn shall be obtained from the city fire chief or other such person as may be designated by the city administrator. Permission is granted for (1) one day unless otherwise specified.

The granting of permission to conduct and open burn shall in no way relieve the person responsible for such burning from the consequences or the damages, injuries, or claims resulting from such burning, or of the responsibility of obtaining any other permit from any other agency.

None of the exceptions listed in §§ 13-114 or 13-115 are to be construed to allow the open burning of leaves, tires, plastics, synthetics, grass clippings, waste fluids, garbage, treated wood, wire insulation, or construction rubbish including, but not limited to shingles, siding, insulation, asphalt, or coal tar impregnated products, or products of similar composition. (1978 Code, § 8-121)

## CHAPTER 2

### JUNKYARDS

#### SECTION

#### 13-201. Junkyards.

**13-201. Junkyards.**<sup>1</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1978 Code, § 8-116)

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<sup>1</sup>State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).



## CHAPTER 3

### RODENT CONTROL

#### SECTION

- 13-301. Definitions.
- 13-302. Instruction in methods of extermination; authority to inspect all buildings.
- 13-303. Certain business buildings to be ratproofed.
- 13-304. Ratproofing of business buildings upon erection, alteration or repair.
- 13-305. Duty of owner of business building upon order of codes enforcement officer.
- 13-306. Duty of occupants of business buildings as to rat control.
- 13-307. Performance of work by owner or occupant or by municipality at cost.
- 13-308. Unlawful to remove ratproofing from business buildings.

**13-301. Definitions.** The following definitions shall apply in the interpretation and the enforcement of this chapter:

(1) "Business building" - The term "business building" shall mean any structure, whether public or private, that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, or sale or storage of goods, wares, merchandise, articles or equipment, including hotels, apartment houses, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain processors, abattoirs, warehouses, workshops and garages, and also all outhouses, sheds, barns, and other structures on premises used for or adapted to business purposes.

(2) "Food and foodstuffs" - The term "food and foodstuffs" is intended to include, besides human food, grain and other feed for animals and fowl.

(3) "Occupant" - The term "occupant" shall mean the individual, partnership, corporation or public agency that has the use of or occupies any business building or a part or fraction thereof, whether the actual owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building or to whom rent is paid shall have the responsibility of an occupant of a building.

(4) "Owner" - The term "owner" shall mean the actual owner of the business buildings, whether individual, partnership, corporation or public agency, and includes also the agent for the buildings, or other person having custody of the buildings, or to whom rent is paid.

(5) "Rat control" - The term "rat control" shall mean the distribution of rat poison or the setting of rat traps or such other methods as may be approved by the codes enforcement officer.

(6) "Rat harborage" - The term "rat harborage" shall mean any condition under which rats may find shelter or protection, and shall include any construction or condition which permits the entrance of rats into any business building.

(7) "Ratproof" - The term "ratproof" applies to a form of ratproofing which will prevent the ingress of rats into business buildings from the exterior. It consists of the closing and keeping closed of all openings in the exterior walls, ground or first floors, basements, roofs, sidewalk gratings, sidewalk openings, foundations, and other places that may be reached and entered by rats by climbing, burrowing or otherwise. (1978 Code, § 8-501)

**13-302. Instruction in methods of extermination; authority to inspect all buildings.** For the purpose of making effective the control of rats within the municipality, the codes enforcement officer shall carry out an educational program which will include methods of poisoning, trapping and other means for the destruction of rats. The codes enforcement officer is hereby authorized to make inspections of all buildings and premises in the municipality for the purpose of determining the condition as to ratproofing and rat infestation; and all owners and occupants of buildings and premises shall permit such inspection when requested by the codes enforcement officer. (1978 Code, § 8-502)

**13-303. Certain business buildings to be ratproofed.** For the purpose of preventing murine typhus fever in the municipality, the owners of the following specified business buildings within the corporate limits shall have such buildings made reasonably ratproof and maintained at all times in such condition, in accordance with the provisions of this chapter:

(1) All business buildings in which food or foodstuffs are stored, sold, or served.

(2) All business buildings directly or indirectly connected by exterior walls with a business building or buildings in which food or foodstuffs are stored, sold or served.

(3) All business buildings which the codes enforcement officer, in the use of his discretion, finds to be in such condition as affords harborage for rats. (1978 Code, § 8-503)

**13-304. Ratproofing of business buildings upon erection, alteration or repair.** All business buildings erected, altered, enlarged, or repaired, and which are included in the classification set forth in § 13-303, shall be made reasonably ratproof and maintained at all times in such condition in accordance with the provisions of this chapter. (1978 Code, § 8-504)

**13-305. Duty of owner of business building upon order of codes enforcement officer.** Whenever conditions inside or under any business

building within the classification set forth in § 13-303 provide such rat harborage that the codes enforcement officer in his discretion, deems it necessary to the prevention of murine typhus fever that such harborage be eliminated, he shall order, in writing, the owner to have such building made reasonably ratproof and maintained at all times in such condition by installing a cement concrete floor in the basement of such building, or by the taking of such other steps toward the elimination of such harborage as the codes enforcement officer, in his discretion, deems essential. Failure to obey any such order of the codes enforcement officer, within thirty (30) days after service of such order, shall constitute a violation of this code of ordinances. (1978 Code, § 8-505)

**13-306. Duty of occupants of business buildings as to rat control.**

For the purpose of preventing murine typhus fever in the municipality, the occupants of business buildings in the city coming within the classification set forth in § 13-303 shall at all times comply with the following regulations:

(1) Store, and keep stored, all garbage accumulating in such building or on its premises in metal containers which shall completely confine such garbage pending its removal. Such metal containers shall conform to the type of container required by the municipality for the storage of garbage.

(2) Maintain the building and premises free of the accumulation of trash, debris, rubbish and similar materials which may provide hiding places, nesting places or harborage for rats.

(3) Upon receipt of written order from the codes enforcement officer that such steps are necessary, immediately institute and regularly pursue a system of rat control in such building and on its premises, by the poisoning, or trapping of rats, or such other method as may be approved by the codes enforcement officer, until the building is reasonably free of rats as determined by inspections of the codes enforcement officer. In case subsequent inspections reveal the building to be reinfested with rats, the rat control measures shall be resumed until the codes enforcement officer declares the building reasonably free of rats. Failure to obey any such order of the codes enforcement officer within five (5) days after service of such order, shall constitute a violation of this code of ordinances. (1978 Code, § 8-506)

**13-307. Performance of work by owner or occupant or by municipality at cost.** The owner of a business building in complying with the provisions of this chapter relative to ratproofing and keeping ratproof such building, and the occupant of a business building in pursuing a system of rat control as required by § 13-303(3)), may do the work himself, or may engage a contractor to do the work, or may have the work performed by the employment of such labor and the purchase of such materials as may be necessary, all to the approval of the codes enforcement officer, or the owner or occupant, if he so desires, may make application to the codes enforcement officer, who thereupon

is hereby authorized to have the necessary ratproofing or the work of rat control done at cost. The cost of ratproofing or rat control performed by the codes enforcement officer shall include the cost of all labor, materials, equipment and supervision necessary to complete the work. Upon completion by the codes enforcement officer of the work applied for, the codes enforcement officer shall submit a bill for the cost of same to the applicant who shall thereupon become liable to the municipality for the full amount of such bill. If bills are not paid within thirty (30) days after billing, the codes enforcement officer shall certify the amount due from the applicant to the municipal attorney, who shall bring suit in the name of the municipality to collect the same. (1978 Code, § 8-507)

**13-308. Unlawful to remove ratproofing from business buildings.**

It shall be unlawful for the occupant, owner, contractor, plumber or any other person to remove the ratproofing from any business building for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (1978 Code, § 8-508)

## CHAPTER 4

### TREE MAINTENANCE

#### SECTION

- 13-401. Purpose.
- 13-402. Authority and power.
- 13-403. Applicability.
- 13-404. Definitions.
- 13-405. Tree planting.
- 13-406. Tree care.
- 13-407. Tree removal.
- 13-408. Voluntary tree replacement program.
- 13-409. Appeal and penalties.
- 13-410. Protection of existing trees.

**13-401. Purpose.** It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City of Sparta. (as added by Ord. #02-755, Dec. 2002)

**13-402. Authority and power.** The authority to execute the provisions of this chapter is the responsibility of the Sparta Board of Mayor and Aldermen. The Sparta Board of Mayor and Aldermen may at any time seek advice and guidance of the Sparta Tree Board and especially in regard to the technical aspects of tree maintenance and supervision. (as added by Ord. #02-755, Dec. 2002)

**13-403. Applicability.** This chapter provides full power and authority over all trees, plants, and shrubs located within street rights-of-way, parks and public places of the city; and to trees, plants, and shrubs located on private property that constitute a hazard or threat to public property as described herein. (as added by Ord. #02-755, Dec. 2002)

**13-404. Definitions.** (1) "Tree" a woody plant with a single trunk, or multiple trunks capable of growing to a height of 15 feet or more.

(2) "Shrub" a woody plant with a multiple stem capable of growing to a height of up to 15 feet.

(3) "Public tree" a tree growing in an area owned by the community, including parks, public buildings, schools, hospitals, and other areas to which the public has free access.

(4) "Private tree" a tree growing in an area owned by a private individual, business or commercial establishment, company, industry, private institution, or other area not owned by government entities.

(5) "Street tree" a tree growing within a public right of way along a street, in a median or in a similar area in which the public right of way borders areas owned by private individuals.

(6) "Utility tree" a tree that will contact any utility structure.

(7) "Pruning" selective removal and thinning of the upper portions of the tree taking into account the shape and natural structure of the tree.

(8) "Proper pruning method" selective removal and thinning of the upper portions of the tree using natural target techniques, taking into account the natural structure of the tree.

(9) "Topping" the arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.

(10) "Drip line" all points directly underneath the end of the branches.

(11) "Line clearance" removal of limbs and branches growing within a set distance of electrical distribution lines. (as added by Ord. #02-755, Dec. 2002)

**13-405. Tree planting.** (1) Tree planting shall be undertaken by the city on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting junction shall be determined by the City of Sparta with recommendations by the tree board.

(2) Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The tree board will provide information about species, planting techniques, and placement guidelines when requested by residents.

(3) The following sections provide a detailed outline of planting requirements.

(a) Grade. Trees to be planted shall be free of insects and diseases, mechanical injuries, and have reasonably straight trunks with a strong leader branch. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.

(b) Spacing. Large tree species capable of achieving more than 45 feet in height shall be spaced at least 40 feet apart. Small tree species capable of achieving up to 45 feet in height shall be spaced at 20-foot intervals. Exceptions may be granted by the tree board when a valid landscape plan is followed, or when greater or lesser spacing are needed to achieve a desired effect.

(c) Planted or natural established seedlings near existing objects. Small tree species may not be established within 8 feet of an imaginary line drawn between utility poles. Large tree species may not be established within 13 feet of an imaginary line drawn between utility poles. For street tree establishment, no tree or shrub may be established closer than 10 feet to a fire hydrant, utility pole, or streetlight.

Establishment of trees and/or shrubs adjacent to roadway intersections including driveways or streets is restricted to provide a safe clear distance to prevent visual impairment or obstructions. When planting between sidewalks and curbs, 6 feet between curb and sidewalk is the minimum distance required for small tree species, and 10 feet for large tree species.

(d) Planting techniques. Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least 3 times the width of the root ball, and no deeper than the root ball. All burlap and twine (or wire) must be removed before filling the holes. Backfill should be a suitable material that will not hinder the growth or establishment of the planted tree. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing on soil walls made by the auger. Trees will be guyed where determined to be necessary. All guy wires shall be regularly checked for girdling and removed within 18 months. (as added by Ord. #02-755, Dec. 2002)

**13-406. Tree care.** (1) Tree topping of all public trees is prohibited and topping of private trees is strongly discouraged.

(2) Tree maintenance may include pruning, fertilizing, watering, insect and disease control, and other tree care activities. The city shall take responsibility for those maintenance activities needed to keep the public trees reasonably healthy and minimize the hazard risk trees could cause to residents and visitors of the city. Determination of maintenance needs will be made by the City of Sparta with recommendations from the Sparta Tree Board. Tree care may be accomplished by trained city personnel or by contract with qualified commercial tree care companies.

(3) Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The tree board will provide information to residents at their request about all aspects of tree care including the latest techniques and procedures currently being practiced.

(4) Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the required methods. Where practicable, the utility shall undertake a program of replacing removed trees with appropriate replacement tree species or cultivars recommended by the tree board.

(5) All trees growing along streets and sidewalks must be pruned free of limbs to a height of 8 feet for sidewalks and 12 feet for streets.

(6) The standard tree pruning method will branch collar pruning as opposed to stub or flush cuts. Large limbs and branches will be pre-cut (using the 3-cut method) to prevent excessive peeling of the bark, followed by cutting the remaining stub.

(7) Grade changes and trenching within the crown spread and trenching within the crown spread of public trees should be conducted in such a way as to minimize root system damage. Owners of private trees are encouraged to consult the tree board before proceeding with these activities. (as added by Ord. #02-755, Dec. 2002)

**13-407. Tree removal.** (1) Dead, diseased, and dying trees that pose a safety or health risk to residents, utility lines, service lines or to other trees shall be removed in a timely manner. This section will apply to both public and private trees. If it is determined by the appropriate department or person as designated by the governing body of a municipality that a particular diseased or dying tree poses a safety risk to the public so as to endanger the health, safety or welfare of other citizens, the appropriate department or person shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall also include, but not be limited to, the following elements:

(a) A brief statement of this section which shall contain the consequences of failing to remedy the noted condition;

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

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

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

(2) If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice and has not requested a hearing, the appropriate department or person shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds of the county in which the property lies, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be 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 falls 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. 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 such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties.

(3) A person aggrieved by a determination made pursuant to the provisions of this chapter shall have the right to request a hearing. A written request for a hearing with the city administrator shall be made within ten (10) days following the receipt of the notice issued pursuant to this section. Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing. Any person aggrieved by an order or act of the City of Sparta under the provisions of this subsection may seek judicial review of the order or act. The time period established in (2) hereinabove shall be stayed during the pendency of a hearing.

(4) Tree removal to ground level is considered part of the tree removal process (0 to 6 inches from the soil is considered ground level).

(5) Sprout control following tree removal will be accomplished by mechanical or chemical means. Any chemical used in sprout control shall be registered and used according to the manufacturers' specifications. (as added by Ord. #02-755, Dec. 2002)

**13-408. Voluntary tree replacement program.** Any trees that qualify to be classified as a hazard or power line tree according to the definitions contained in this chapter may be removed by the City of Sparta with permission of the property owner. As an incentive for property owners to participate in the voluntary replacement program, after the qualifying trees are removed, the city shall provide for removal of the remaining stumps with the area of the removal to be filled in a suitable manner. Removed trees shall be replaced at property owners' request through the tree replacement program at the electric department. Replacement trees shall be of good quality, with reasonably straight, single trunks. They shall be at least 2" in caliper and between 4'-6' in height of a variety approved by the Sparta Tree Board. Trees shall be replaced from late November until late March, pending weather conditions. The utilities manager is authorized to develop administrative policies and procedures for the implementation of the voluntary tree replacement program in conformance the guidelines contained herein. (as added by Ord. #02-755, Dec. 2002)

**13-409. Appeal and penalties.** (1) Any person dissatisfied with the application of the provisions of this chapter shall have the right to a hearing with the City Administrator of the City of Sparta in accordance with the provisions of § 13-407.

(2) Any violator of this chapter shall be deemed guilty of a misdemeanor, and according to the laws of the State of Tennessee shall be fined a maximum of \$50.00. Each subsequent day that any violation continues unabated shall constitute a separate offense.

(3) Any violator of this chapter will be subject to cost incurred by the city in correcting the chapter violation through appropriate maintenance or removal process. (as added by Ord. #02-755, Dec. 2002)

**13-410. Protection of existing trees.** As it pertains to commercial and residential development, the city maintains that it is in the best interest of all concerned to save as many existing trees as practical. (as added by Ord. #02-755, Dec. 2002)

## **TITLE 14**

### **ZONING AND LAND USE CONTROL**

#### **CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. GENERAL ZONING PROVISIONS.
3. RESIDENTIAL A DISTRICTS.
4. RESIDENTIAL B DISTRICTS.
- 4A RESIDENTIAL/COMMERCIAL (R/C) DISTRICTS.
5. COMMERCIAL A DISTRICTS.
6. COMMERCIAL B DISTRICTS.
7. COMMERCIAL C DISTRICTS.
8. COMMERCIAL D DISTRICTS.
9. INDUSTRIAL M-I DISTRICTS.
10. MOBILE HOMES, MOBILE HOME PARKS, AND PORTABLE COMMERCIAL STRUCTURES.
11. MUNICIPAL FLOOD DAMAGE PREVENTION ORDINANCE.
12. HISTORIC (H-1) DISTRICTS.
13. ADMINISTRATION AND ENFORCEMENT.
14. BOARD OF ZONING APPEALS.
15. SUBDIVISIONS.
16. HISTORICAL ZONING COMMISSION.
17. BILLBOARDS.
18. SPECIFIC REGULATIONS FOR CHILD DAY CARE FACILITIES.
19. MINIMUM DESIGN STANDARDS FOR TELECOMMUNICATIONS TOWERS AND STATIONS.
20. MINIMUM LANDSCAPING REQUIREMENTS.
21. METHADONE AND SUBSTANCE ABUSE TREATMENT FACILITIES.

#### **CHAPTER 1**

### **MUNICIPAL PLANNING COMMISSION**

#### **SECTION**

- 14-101. Commission established.
- 14-102. Mayor or a person designated by the mayor to be a member of commission.
- 14-103. Powers, duties of commission.
- 14-104. Additional powers.

**14-101. Commission established.** Pursuant to the enabling legislation of the State of Tennessee, Tennessee Code Annotated, title 14 chapter 4, a municipal planning commission, consisting of seven (7) members and designated as Sparta Planning Commission, is hereby established. (1978 Code, § 11-101, as replaced by Ord. #04-784, Oct. 2004)

**14-102. Mayor or a person designated by the mayor to be a member of commission.** One of the members of the planning commission shall be the mayor of the municipality or a person designated by the mayor. This member's term shall run concurrent with the mayor's then term in office and shall serve at the pleasure of the mayor if the member is designated. (1978 Code, § 11-102)

**14-103. Powers, duties of commission.** The duties, functions and powers of the planning commission shall consist of the functions and powers provided by law and of such further duties and powers consistent therewith as from time to time may be imposed and delegated to it by the board of mayor and aldermen. (1978 Code, § 11-103)

**14-104. Additional powers.** Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1978 Code, § 11-104)

## CHAPTER 2

### GENERAL ZONING PROVISIONS<sup>1</sup>

#### SECTION

- 14-201. Definitions.
- 14-202. Official zoning map.
- 14-203. Replacement of zoning map.
- 14-204. Rules for interpretation of district boundaries.
- 14-205. Application of district regulations.
- 14-206. Nonconformities.
- 14-207. Design requirements for parking spaces and lots.
- 14-208. Reserved.
- 14-209. Corner lots in residential districts.
- 14-210. Visibility at intersections in certain districts.
- 14-211. Servicing, storage, repair, or sales of motor vehicles.
- 14-212. Schedule of district regulations adopted.

**14-201. Definitions.** For the purposes of chapters 2 through 14 of this title, certain terms or words used herein shall be interpreted as follows:

- (1) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (2) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (3) The word "shall" is mandatory, the word "may" is permissive.
- (4) The words "used" or "occupied" include the words "intended, or arranged to be used or occupied."
- (5) The word "lot" includes the words "plot or parcel."
- (6) "Accessory use or structure." A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

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<sup>1</sup>The zoning provisions set out in this title in chapters two through fourteen are taken from the zoning ordinance dated May 1, 1974. Some of the catchlines have been slightly changed and the sections and subsections have been renumbered. Otherwise, only such minor changes in the wording as necessary to adapt the zoning ordinance to this code have been made. It is the intention of the board in adopting chapters two through fourteen herein to continue in effect the provisions of the above-referred-to zoning ordinance. It is expressly not intention of the board to hereby enact any new zoning regulations.

Where the context requires, the designation "chapters 2 through 14 of this title" shall mean Ord. #12 of May 1, 1974.

(7) "Dwelling, two-family." A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

(8) "Dwelling, single-family." A detached residence designed for or occupied by one family only.

(9) "Dwelling, multiple-family." A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

(10) "Family." One or more persons occupying a single non-profit housekeeping unit.

(11) "Lot." A piece, parcel, or plat of land in one ownership, which may include one or more lots of record, occupied or to be occupied by one principal building and its accessory buildings and including the open spaces required under chapters 2 through 14 of this title.

(12) "Lot frontage." The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yard" in this section.

(13) "Lot measurements." (a) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the rear.

(b) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each yard, provided, however, that width between side lot lines at their forepoints (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of the cul-de-sacs, where the 80 percent requirements shall not apply.

(14) "Lot of record." A lot which is part of a subdivision recorded in the office of the clerk of the circuit court, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

(a) "Corner lots." A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

(b) "Interior lot." A lot other than a corner lot with only one frontage on a street other than an alley.

(c) "Through lot." A lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as "double frontage" lots.

(d) "Reversed frontage lot." A lot in which the frontage is at right angles, or approximately right angles, to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot.

(15) "Mobile home." A mobile home is a single-family dwelling designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundation, connection to utilities and the like.

(16) "Mobile home park." A portion or parcel of land designed for or which is intended to be used to accommodate nine (9) or more mobile homes.

(17) "Mobile home subdivision." A mobile home subdivision is a subdivision designed and intended for residential use where residence is in mobile homes exclusively.

(18) "Special exception." A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to the number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provision for such special exceptions is made in chapters 2 through 14 of this title.

(19) "Street line." The right-of-way line of a street.

(20) "Structure." Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

(21) "Variance." A variance is a relaxation of the terms of chapters 2 through 14 of this title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of chapters 2 through 14 of this title would result in unnecessary and undue hardship. As used in chapters 2 through 14 of this title, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

(22) "Yard." A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided however that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

(23) "Yard, front." A yard extending between side lots lines across the front of a lot.

In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of 30 inches and ten feet.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots which do not have reversed frontage; a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the codes enforcement officer shall determine the front yard requirements, subject to the following limitations:

(1) At least one front yard shall be provided having the full depth required generally in the district;

(2) No other front yard on such lots shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost points of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

(24) "Yard, side." A yard extending from the rear line of the required front yard to the rear lot line.

In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard, adjacent to the interior lot. In the case of corner lots with reversed frontage, the yards remaining after the full and half-depth front yards have been established shall be considered to be side yards.

Width of required side yards shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

(25) "Yard, rear." A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the



rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the half depth front yard.

Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear line of a required rear yard shall be parallel to the straight line so established.

(26) "Portable commercial structure." A portable commercial structure is a building designed for transportation, after fabrication, in one or more pieces, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be used substantially complete and ready to use except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundation, connection to utilities, and the like.

(27) "Buffer strip or screening." A greenbelt planted not less than ten (10) feet in width. Such green belt planted strip shall be composed of one (1) row of evergreen trees, spaced not more than twenty (20) feet apart, and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet in height.

(28) "Telecommunication support structure or support structure." Any structure or building other than a tower which can be used for location of telecommunication facilities.

(29) "Telecommunication tower or tower." Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, personal communications service (PCS) towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This definition does not include any structure erected solely for residential, non-commercial individual use, such as television antennas, satellite dishes, or amateur radio antennas. (1978 Code, § 11-201, as amended by Ord. #02-756, Nov. 2002)

**14-202. Official zoning map.** The city is hereby divided into zones, or districts, as shown on the official zoning map,<sup>1</sup> which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of chapters 2 through 14 of this title.

The official zoning map shall identified by the signature of the mayor, attested by the city recorder, and bearing the seal of the city under the following

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<sup>1</sup>The board of mayor and aldermen adopted a new zoning map by Ord. #549, March 1983. This map has been amended by Ords. #552; 556; 567; 583; 591; 602; 603; 619; 626; 627; 628; 629; 630; 632; 635; 637; 91-641; 91-669; 94-670; 95-673; 00-727, 00-728, 00-729; 02-750; 02-751; 04-786; 05-803; 06-805; 06-806; 06-807; 06-809; and 06-810.

words: "This is to certify that this is the official zoning map referred to in § 14-202 of the Sparta Municipal Code," together with the date of the adoption of chapter 2 through 14 of this title.

If, in accordance with the provisions of chapters 2 through 14 of this title and Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the board of mayor and aldermen, together with an entry on the official zoning map as follows: "On \_\_\_\_\_, \_\_\_\_\_, by official action of the board of mayor and aldermen, the following changes were made in the official zoning map."

The amending ordinance shall provide that such changes or amendments shall not become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in chapters 2 through 14 of this title. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of chapters 2 through

14 of this title and punishable as provided under the general penalty clause for this code.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the city recorder shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city. (1978 Code, § 11-202)

**14-203. Replacement of official zoning map.** In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the board of mayor and aldermen may by ordinance adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city recorder, and bearing the seal of the town under the following words: "This is to certify that this official zoning map supersedes and replaces the official map adopted \_\_\_\_\_, \_\_\_\_\_, as part of title 14 chapters 2 through 14 of the Sparta Municipal Code." (1978 Code, § 11-203)

**14-204. Rules for interpretation of district boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (3) Boundaries indicated as approximately following city limits shall be construed as following city limits;
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as approximately following the center lines of streams, rivers, or other bodies of water shall be construed to follow such center lines;
- (6) Boundaries indicated as parallel to, or extensions of, features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 6 above, the board of zoning appeals shall interpret the district boundaries. (1978 Code, § 11-204)

**14-205. Application of district regulations.** The regulations set by chapters 2 through 14 of this title within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

(1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

(2) No building or other structure shall hereafter be erected or altered:

(a) To exceed the height;

(b) To accommodate or house a greater number of families;

(c) To occupy a greater percentage of lot areas; or

(d) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner contrary to the provisions of chapters 2 through 14 of this title.

(3) No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with chapters 2 through 14 of this title, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other use.

(4) No yard or lot existing at the time of passage of chapters 2 through 14 of this title shall be reduced in dimension or area below the minimum requirements set forth herein. Yards of lots created after the effective date of chapters 2 through 14 of this title shall meet at least the minimum requirements established by chapters 2 through 14 of this title.

All territory which may hereafter be annexed to the city shall be considered to be zoned in the same manner as the contiguous territory inside previous city limits until otherwise classified. (1978 Code, § 11-205)

**14-206. Nonconformities.** The purpose of this section is to establish regulations and limitations on the continued existence of uses, lots, and structures established prior to the effective date of this zoning code which do not conform to the provisions of this zoning code. For the purposes of this section, the following definitions shall apply:

"Nonconforming lot:" A parcel or lot of land at the time of enactment of this zoning ordinance or at the time of its annexation into the corporate limits, and which does not conform to the area requirements of the district or zone in which it is located.

"Nonconforming use:" A building, structure, or use of land existing at the time of enactment of this zoning ordinance or at the time of its annexation into the corporate limits, and which does not conform to the district or zone in which it is located.

Any nonconforming lot, structure, or use of land or structure which existed lawfully at the time of the enactment of this zoning code and which remains nonconforming and any lot, structure, use, or use of structure which shall

become nonconforming upon enactment of this zoning code or any subsequent amendments thereto may be continued subject to the provisions of this section. To avoid undue hardship, nothing in this zoning code shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this zoning code and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(1) Nonconforming lots. (a) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this zoning code, a single-family dwelling and customary accessory building may be erected on any single lot of record as of the enactment of this zoning code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the board of zoning appeals.

(b) If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this zoning code, and if all or part of the lots do not meet the requirements for lot width and area established by this zoning code, the lands involved shall be considered to be an undivided parcel for the purposes of this zoning code, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this zoning code, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this zoning code.

(c) Where buildings and structures are presently lawful in accordance with the yard, lot size, and building setback requirements of this zoning ordinance, but would be rendered unlawful due to alterations in rights-of-way for streets and alleys which are instituted by or expressly approved by the City of Sparta and/or the State of Tennessee, whether by condemnation or acceptance of right-of-way conveyance, the yard, lot size and building setback requirements of this zoning ordinance shall not be applied and enforced to prohibit or otherwise decree as unlawful such buildings and structures. Nothing herein shall be construed so as to

permit any building or structure to be erected after such an alteration in violation of the provisions of this zoning ordinance.

(2) Change of nonconforming use. (a) Change to another nonconforming use of the same classification. An existing nonconforming use of a structure may be changed to another nonconforming use of the same classification, activity type or any other activity type or major class of activity; provided, however, that establishment of another nonconforming use shall be subject to the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require to protect the area. However, a change in occupancy or ownership shall not, by itself, constitute a change of use.

(b) Change to a conforming use. A nonconforming use may be changed to any conforming use, and the applicable lot area regulations and off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use. Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

(3) Expansion of structures with nonconforming uses. (a) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this zoning code.

(b) Nonconforming industrial, commercial, or business uses may construct additional facilities that would allow the operations of the establishments to be expanded provided there is enough space to meet the area requirements of the district and provided it is done in accordance with the provisions of Section 13-7-208 of the Tennessee Code.

(c) The property on which the expansion will take place must be owned by the industry or business situated within the area which is affected by the change in zoning. The acquisition of additional land for the purpose of expanding an existing nonconforming industry or business is prohibited.

(4) Demolition, destruction, and reconstruction. (a) Nonconforming industrial, commercial or other business establishments shall be allowed to demolish present facilities and reconstruct new facilities necessary to the conduct of such industry or business when in accordance with the provisions specified in Section 13-7-208 of the Tennessee Code and provided that new facilities are utilized for the same land use that was previously allowed, and provided that the new facilities meet minimum yard requirements, maximum lot coverage requirements, and general parking requirements.

(b) Any nonconforming structure or structure used for a nonconforming use that is destroyed by fire or other natural disaster may be reconstructed to the point of use and size at the time the disaster occurred provided all provisions of Section 13-7-208 of the Tennessee Code are met.

(c) A building permit for the reconstruction of a nonconforming structure or a structure used for a nonconforming use must be obtained within six (6) months of the date of demolition or destruction of the structure. Any reconstruction must be completed within twelve (12) months of the date of the issuance of the building permit.

(5) Discontinuance or abandonment. When a nonconforming use of land or a nonconforming use of part or all of a structure is discontinued or abandoned for a period of twelve (12) consecutive months (regardless of any reservation of intent not to abandon and to resume such use) such use shall not thereafter be re-established or resumed. Any subsequent use or occupancy of such land or structure shall comply with the regulations of the zoning district in which such land or structure is located.

(6) Maintenance, repairs, alterations, enlargement and movement.

(a) Any nonconforming structure may be maintained, repaired, altered or enlarged; provided however, that no such maintenance, repair, alteration or enlargement shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure.

(b) Nothing in this zoning code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(c) A nonconforming structure shall not be moved in whole or in part, for any distance, to any other location on the same or any other lot unless the entire structure shall thereafter conform with the regulations of the zoning district in which it is located after being moved.

(7) Uses permitted on appeal (special exceptions) not nonconforming uses. Any use for which a special exception is permitted as provided in this zoning code shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district. (1978 Code, § 11-206, as replaced by Ord. #03-764, Feb. 2003)

**14-207. Design requirements for parking spaces and lots.** Parking spaces and lots shall be designed and constructed in accordance with the following minimum standards and requirements. (1) Off-street parking spaces shall be of dimensions conforming to the standards shown on the following illustration, "Parking Space and Aisle Design Requirements", but in no case shall be less than nine (9) feet in width and nineteen (19) feet in length.

(2) Design requirements. The design requirements for parking spaces and aisles located within a parking lot are shown on the following illustration, illustration of parking, "Parking Space and Aisle Design Requirements" in § 14-207 of this zoning code.

Except on lots occupied by single family and two family dwellings, no parking spaces shall be designed so that a vehicle is required to back onto a public street or alley.

(3) Surfacing requirements. Parking lots and driveways shall be surfaced with Portland cement concrete or asphaltic concrete, as specified in the Sparta Subdivision Regulations, and be so constructed to provide for adequate drainage and prevent the release of dust.

(4) Grades. Grades within the paved area of a parking lot shall at no place be less than one (1) percent or more than five (5) percent.

Grades of driveways or entrances from a public street serving a parking lot shall at no point exceed eight (8) percent. Single- and two-family dwellings are not subject to the requirements of this section.

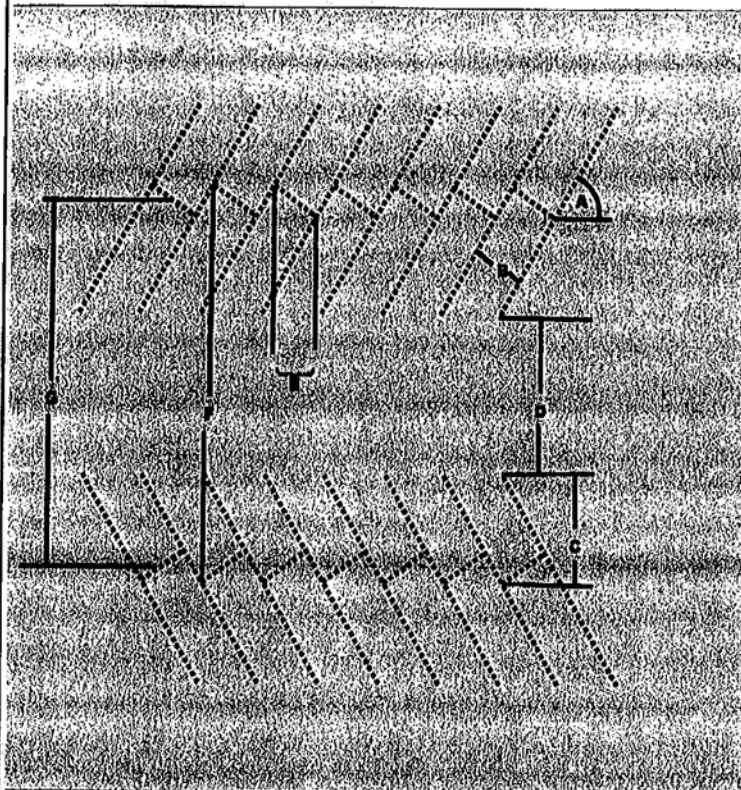
(5) Curbing. Continuous curbing or individual wheel stops shall be provided where the front of a parking space is adjacent to the perimeter of the parking lots.

(6) Lighting. Any lighting used to illuminate off-street parking lots shall be so arranged to prevent direct glare onto any public or private property, or streets.



# ILLUSTRATION OF PARKING

## PARKING SPACE & AISLE DESIGN REQUIREMENTS



- A: Parking Angle**  
**B: Stall Width**  
**C: 19'-0" Stall to Curb**  
**D: Aisle Width**  
**E: Curb Width Per Vehicle**  
**F: Center to Center Width of Double Row with Aisle between**  
**G: Curb to Curb at Stall Center**

NOTE: Not to Scale

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>
<b>0°</b>	9.0'	9.0'	11.0'	23.0'	30.0'	0'
<b>20°</b>	9.0'	15.0'	11.0'	26.3'	41.0'	32.5'
<b>30°</b>	9.0'	17.3'	11.0'	18.0'	45.6'	37.8'
<b>45°</b>	9.0'	19.8'	13.0'	12.7'	52.5'	46.5'
<b>60°</b>	9.0'	21.0'	18.0'	10.4'	50.0'	55.5'
<b>70°</b>	9.0'	21.0'	19.0'	9.6'	61.0'	57.9'
<b>80°</b>	9.0'	20.3'	22.0'	9.1'	62.6'	61.0'
<b>90°</b>	9.0'	19.0'	24.0'	10.0'	62.0'	62.0'

(1978 Code, § 11-207, as replaced by Ord. #03-764, Feb. 2003; and Ord. #04-783, Oct. 2004)

**14-208. Reserved.** (1978 Code, § 11-208, as replaced by Ord. #03-764, Feb. 2003)

**14-209. Corner lots in residential districts.** Where corner lots in residential districts are platted in such a manner as to change the normal yard pattern along either of the intersecting streets, the required front yard shall be provided across the end of the lot fronting on the street, and a yard equivalent to at least half of the front yard requirements, but in no case measuring less than fifteen (15) feet from the street line, shall be provided along the full length of the lot on the side toward the intersecting street. No portion of any main or accessory building shall encroach on this yard. (1978 Code, § 11-209)

**14-210. Visibility at intersections in certain districts.** On corner lots in any district where front or side yards are required, no obstruction to vision shall hereafter be planted, allowed to grow, parked, placed or erected in such a manner as materially to impede visibility between a height of two feet and ten feet above the grade of the intersecting streets at their point of intersection in an area bounded by the street lines adjoining said corner lot and a line joining points a long said street lines 50 feet from the point of intersection. (1978 Code, § 11-210)

**14-211. Servicing, storage, repair, or sales of motor vehicles.** The following limitations shall apply to structures and uses involving the servicing, storage, repair, or sales of motor vehicles:

(1) No public street, parking area, sidewalk or way shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments, except for normal parking by individual private owners or operators of such vehicles.

(2) No operation in connection with such establishments shall be carried on in a way which impedes free flow of vehicular or pedestrian traffic in normal courses on public ways.

(3) All motor vehicles being handled, stored or repaired by such establishments shall be maintained in such condition that they may be moved under their own power at any time except such vehicles as may be under repair in garages or other buildings as provided in item (4), below.

(4) No repair of motor vehicles or parts thereof shall be made except within garages, service stations, body shops or other buildings used for such purposes. (1978 Code, § 11-211)

**14-212. Schedule of district regulations adopted.** District regulations shall be as set forth in the schedule of district regulations, hereby adopted by reference and declared to be part of chapters 2 through 14 of this title, and in §§ 14-209--14-211 of this title. For the purpose of chapters 2 through 14 of this title and as shown on the official zoning map, Sparta, Tennessee, is hereby divided into ten (10) use districts as follows:

Residential A Districts - (Single Family)  
Residential B Districts - (Multiple Family)  
Residential-Commercial Districts - (Residential-Multi-Use)  
Commercial A Districts - (Transition Business)  
Commercial B Districts - (Neighborhood Shopping)  
Commercial C Districts - (Central Business)  
Commercial D Districts - (General Business)  
Industrial M-1 Districts - (Manufacturing-Industry)  
Flood Plain District  
Historic H-1 Districts - (Historic Overlay Zone)

(1978 Code, § 11-212, as amended by Ord. #99-716, May 1999)

## CHAPTER 3

### RESIDENTIAL A DISTRICTS

#### SECTION

- 14-301. Residential A Districts.
- 14-302. Uses permitted.
- 14-303. Uses permitted on appeal.
- 14-304. Uses prohibited.
- 14-305. Minimum lot requirements.
- 14-306. Minimum yard requirements.
- 14-307. Maximum height.
- 14-308. Minimum off-street parking requirements.
- 14-309. Signs and billboards.

**14-301. Residential A Districts.** Within the Residential A Districts (Single-Family) as shown on the official zoning map, the following regulations in this chapter shall apply. (1978 Code, § 11-301)

**14-302. Uses permitted.** Uses permitted shall include the following:

- (1) Single-family detached dwellings.
- (2) Public elementary and high schools and private schools having courses of study approximately the same as public elementary and high schools.
- (3) Buildings used exclusively by federal, state, county or local governments for public purposes.
- (4) Churches and other places of worship, including Sunday schools.
- (5) Parks, playgrounds and playfields.
- (6) Farms, nurseries, truck gardens, non-commercial greenhouses and other customary agricultural uses and structures.
- (7) The taking of boarders or renting of rooms by a resident family, provided that the total number of boarders and roomers does not exceed two.
- (8) Private garages, tool sheds, and other accessory uses and structures customarily incidental to residential or other permitted uses when located on the same property with the following provisions:
  - (a) Except for attached private garages, which shall not project beyond the front of the main building, all accessory buildings shall be located behind the main building and further provided that on no lot shall any structure be built closer than five (5) feet to any lot line.
  - (b) Customary home occupations, such as the offices of physicians, architects, or engineers, or artist's studios, are permitted provided that:
    - (1) Such occupation shall be carried on within the main building;

(2) Not more than one person not resident on the premises shall be employed;

(3) Such occupation shall be clearly incidental and secondary to the use of the building for residential purposes;

(4) The external appearance of the building shall not be changed as a result of the conduct of the occupation, and there shall be no external evidence of such occupation on the buildings or grounds except that a small professional notice or sign, not exceeding one square foot in area, may be mounted against the side of the building. (1978 Code, § 11-302)

**14-303. Uses permitted on appeal.** After public notice and hearing, and subject to appropriate conditions and safeguards, the board of zoning appeals may permit:

(1) Private hospitals, clinics and sanitariums,

(2) Golf courses,

(3) Cemeteries,

(4) Temporary structures and field offices, provided that such permit shall not be for a term of more than six months.

(5) Private clubs, lodges and lodge halls, excepting those in which the conduct of commercial affairs plays a major part.

(6) Child day care facilities, subject to specific requirements of chapter 18.

(7) Telecommunication towers and support structures. (1978 Code, § 11-303, as amended by Ord. #99-724, Nov. 1999, and Ord. #02-756, Nov. 2002)

**14-304. Uses prohibited.** Any use not specifically permitted or permissible on appeal is prohibited. (1978 Code, § 11-304)

**14-305. Minimum lot requirements.** Minimum lot requirements shall be:

(1) Lot area: 10,000 sq. ft.

(2) Lot width: 80 ft.

(3) Lot coverage (by all buildings): 35 percent

(1978 Code, § 11-305)

**14-306. Minimum yard requirements.** Minimum yard requirements shall be:

(1) Front: 30 ft.

(2) Side: 12 ft. for either side (see § 14-209)

(3) Rear: 30 ft.

(1978 Code, § 11-306)

**14-307. Maximum height.** Maximum height shall be:

(1) Residence: 30 feet or 2 stories.

(2) Other permitted structures: 50 feet; 4 stories, provided that for other structures, in addition to general yard requirements, one foot shall be added to required front and side yards for each foot of height over thirty (30) feet. (1978 Code, § 11-307)

**14-308. Minimum off-street parking requirements.** Minimum off-street parking requirements shall be as follows:

- (1) Dwellings: One off-street parking space for each dwelling unit.
  - (2) Schools: One off-street parking space for each staff member, plus one off-street parking space for each ten (10) fixed seats in auditoriums or for each 100 square feet of floor space in assembly rooms with movable seats.
  - (3) Churches, Sunday schools: One off-street parking space for each five (5) fixed seats or for each 50 square feet in assembly rooms with movable seats.
  - (4) Public buildings: One off-street parking space for each regular employee plus adequate parking space for public use.
  - (5) Hospitals, clinics: One off-street parking space for each two beds.
- (1978 Code, § 11-308)

**14-309. Signs and billboards.** No signs, billboards, posters, bulletin boards or other similar matter shall be permitted except as follows:

- (1) Announcements and professional signs as provided for in connection with home occupations.
- (2) Only one sign, not exceeding six (6) square feet in area to advertise the premises on which such sign is displayed for sale, rent or lease, provided that such sign shall not be placed closer than ten (10) feet to any property line.
- (3) One bulletin board not exceeding ten (10) square feet in area may be erected by any church.
- (4) Official public notices may be erected at appropriate locations on property affected. (1978 Code, § 11-309)

## CHAPTER 4

### **RESIDENTIAL B DISTRICTS**

#### **SECTION**

- 14-401. Residential B Districts.
- 14-402. Uses permitted.
- 14-403. Uses permitted on appeal.
- 14-404. Uses prohibited.
- 14-405. Minimum lot requirements.
- 14-406. Minimum yard requirements.
- 14-407. Maximum height.
- 14-408. Minimum off-street parking requirements.
- 14-409. Signs and billboards.
- 14-410. Zero lot-line/two family dwelling regulations.

**14-401. Residential B Districts.** Within the Residential B Districts (Multiple-Family) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-401)

**14-402. Uses permitted.** Any structure or use permitted in Residential A Districts shall be permitted, and in addition the following uses shall be permitted:

- (1) Two-family dwellings.
- (2) Multiple-family dwellings.
- (3) Tourist homes, boarding and lodging houses.
- (4) Any accessory use or building customarily incidental to the above permitted uses.
- (5) Mobile homes in mobile home parks only. (1978 Code, § 11-402, modified)

**14-403. Uses permitted on appeal.** After public notice and hearing, and subject to appropriate conditions and safeguards, the board of zoning appeals may permit:

- (1) Private clubs and lodges, excepting those in which the conduct of commercial affairs plays a major part.
- (2) Adult trade schools, business and commercial schools, and night schools.
- (3) Child day care facilities, subject to specific requirements of chapter 18.
- (4) Telecommunication towers and support structures. (1978 Code, § 11-403, as amended by Ord. #99-724, Nov. 1999, and Ord. #02-756, Nov. 2002)

**14-404. Uses prohibited.** Any use not specifically permitted or permissible on appeal is prohibited. (1978 Code, § 11-404)

**14-405. Minimum lot requirements.** Minimum lot requirements shall be:

- (1) Lot area: One family dwelling, 7000 square feet; each additional dwelling unit, 2500 square feet.
  - (2) Lot width: 70 feet
  - (3) Lot coverage (by all buildings): 40 percent
- (1978 Code, § 11-405)

**14-406. Minimum yard requirements.** Minimum yard requirements shall be:

- (1) Front: 25 feet
- (2) Side: 10 feet for either side (see § 14-209)
- (3) Rear: 20 feet. (1978 Code, § 11-406)

**14-407. Maximum height.** Maximum height shall be as follows:

- (1) Residences: 35 feet or 3 stories
- (2) Other permitted uses: same as for Residential A Districts. (1978 Code, § 11-407)

**14-408. Minimum off-street parking requirements.** Minimum off-street parking requirements shall be the same as for Residential A Districts for uses listed thereunder, and for additional uses as follows:

- (1) Multiple-family dwellings, boarding and lodging houses: one off-street parking space for each rental unit or dwelling unit.
- (2) Private clubs and lodges: one off-street parking space per 300 square feet of gross floor area. (1978 Code, § 11-408)

**14-409. Signs and billboards.** Regulations concerning signs and billboards for Residential B Districts shall be the same as for Residential A Districts, and in addition, not more than two signs with a total area of not more than six square feet for any one establishment may be placed, indicating the name and nature of the establishment and the kind of accommodations offered. Such sign may be mounted on the front or side of establishment, or in front or side yards, provided that no sign shall be placed closer than ten feet to any property line. (1978 Code, § 11-409)

**14-410. Zero lot-line/two family dwelling regulations.** (1) The provisions set forth herein are intended to apply to all zero lot-line two-family detached dwellings as defined by this ordinance. It is the express purpose of these provisions to establish design criteria and to provide for the implementing of these provisions by the planning staff in the review of the site plan. Within the R-B Zoning District, zero lot-line dwellings may be located upon appropriate zone lots, and such dwellings may be subdivided by party wall into two separate zone lots provided that a site plan of such development is approved by the planning commission along with necessary subdivision plat(s). In granting approval of the site plan, the planning commission shall be guided by the following:



(2) Minimum size and ownership. (a) No property with zero-lot line development consideration shall be less than two (2) acres in size. At the time of application, the entire tract of land for which development is requested shall be under the control of a single individual, partnership or corporation.

(3) Design criteria. Minimum requirements shall be:

(a) Other than the zero lot-line separating the two dwelling units, all other minimum lot and yard requirement cited within this section shall be met.

(b) No zero side yard shall be adjacent to any public or private right-of-way.

(c) No portion of a dwelling or architectural feature of a structure shall project over any property line.

(d) Where the same interior property line is utilized for the construction of any dividing structure, such dividing structure shall consist of double walls separated by a minimum space of two (2) inches.

(e) Where the same interior property line is utilized as a party wall to divide any two-family dwelling, all the provisions of the Standard Building Codes or international building code shall be met, and all required fire walls shall have a rating of not less than two (2) hour duration.

(f) At all points of attachment, such buildings shall be separated from each other by firewalls extending from footings to the underside of the roof deck without openings which would permit a spread of fire.

(g) All two-family detached units shall be designed to closely resemble in appearance the surrounding housing units in the immediate neighborhood. Particular attention should be paid to locating only one entrance door servicing the front of the structure whenever feasible.

(h) Exterior building materials shall be of the same type and quality of other dwelling units in the neighborhood or on adjoining lots.

(i) Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walks and landscaping shall be provided for the protection an aesthetic enhancement of the development and the privacy of the occupants.

(j) The appearance and character of the site shall be preserved as appropriate and enhanced by retaining and protecting existing trees and other site features.

(k) Individual water and sewer service shall be individually metered and with dedicated easements provided for the each lot/unit and meet all city and state regulations.

(l) All current requirement of the NFPA fire code must be satisfied.

(4) Deed covenants. Information relating to covenants shall be as follows:

(a) An agreement covering the status, including the ownership, maintenance, etc. of the common wall separating the units and zone lots.

(b) Adequate language to assure proper maintenance of any portion of the structure where maintenance must be shared. If the correction of a maintenance problem incurred in a dwelling unit situated on a single zone lot (on one parcel) necessitates construction work or access on the dwelling unit or structure of the adjoining parcel, either parcel owner shall have an easement on the property of the other for the purpose of the construction. Each party shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts or omissions.

(c) Adequate language to assure that any property divided under this provision shall be continuously subject to the unified plan under which was originally approved. Such language shall so specifically include clear and precise statements whereby the purchaser is informed that the property may not be used in any manner which would have the effect of negating the unified plan under which original approval was granted and language indicating that the purchaser of any such parcel understands that in no instance within any R-B zoning district will any such parcel or zone lot be viewed as a separate, independent parcel for zoning purposes, other than for the purpose or specific use of serving as a separate lot upon which only a portion of a two-family dwelling is located.

(d) Adequate language covering any and all cross access and utility easements that are necessary to assure the proper use and maintenance of all ingress and egress areas, as well as all utility services.

(e) If a fire wall is destroyed or damaged by fire or other casualty, any owner may restore it. If the other owners thereafter make use of the wall, they shall contribute to the cost of the restoration thereof in proportion to such use without prejudice. However, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts or omissions. Either parcel owner shall have an easement on the property of the other for the purpose of reconstruction and protection of the remaining unity from the elements.

(5) Minimum lot size requirements. The lot size shall be:

(a) One hundred (100%) percent larger than the foundation foot print. Each dwelling unit must be a minimum of 1,200 square feet of heated living space.

(6) Minimum yard/building setback requirements. Minimum setbacks shall follow:

(a) Front Setback: 25 Feet

(b) Side Yard Setbacks: Side yard must be a minimum of 7.5 Feet. No setback or side yard requirement for zero lot-line division of two dwelling unit.

(c) Rear Setback: 20 Feet

(d) Accessory Structure Setback: 5 feet from side or rear yard.

- (7) Maximum height. Maximum height shall be as follows:
  - (a) Dwelling Unit/Building: 35 Feet
- (8) Street and right-of-way standard. Minimum standards shall be met as indicated in the "Sparta Subdivision Regulations" Article III, Section D under "Streets".
- (9) Utility standards. Minimum standards shall be met as indicated in the "Sparta Subdivision Regulations" Article III, Section E under "Utilities".
- (10) Minimum off-street parking requirement. Minimum off-street parking shall be as follows:
  - (a) Off street parking shall be provided on site convenient to the dwelling unit.
  - (b) Two (2) spaces shall be provided per dwelling unit.
  - (c) Where appropriate, common driveways, parking areas, walks, ramps and steps shall be provided and maintained and lighted for night use.
  - (d) All driveways and parking areas shall be paved.
- (11) Landscaping, screening and buffer requirements. (a) The "Landscaping, Screening and Buffer Yard" requirements in chapter 20 of the zoning ordinance shall apply.
- (12) Drainage and storm water management. Minimum standards shall be met as indicated in the "Sparta Subdivision Regulations" Article III, Section G under "Drainage".
- (13) Site plan requirements. (a) The development requiring a grading and building permit shall conform the § 14-1304 "Site Plan Requirements" of the zoning ordinance.
- (14) Traffic study required. (a) A traffic study shall be prepared and submitted to the planning commission for the development in excess of 50,000 SF of total floor space if determined by the building inspector as necessary.
- (15) Sign regulations. (a) The sign/billboard requirements of 14-4A10 (Residential/Commercial District-R/C) of the "zoning ordinance" shall apply.
- (16) Administration. (a) In zero lot-line/two family dwellings structure subdivisions, rather than filing a preliminary plat for review by the planning commission as required in the typical process of reviewing subdivisions, a site plan must be presented and approved by the planning commission. Before any construction of the two-family dwellings foundation and footings can begin, the accurate survey points must be established for all common walls on site. Once this procedure is completed, final plats can be presented for approval by the planning commission as the construction of such structures continues. (as added by Ord. #05-789, April 2005, and amended by Ord. #05-793, July 2005)

## CHAPTER 4A

### **RESIDENTIAL/COMMERCIAL (R/C) DISTRICTS**

#### **SECTION**

- 14-4A01. Residential commercial districts.
- 14-4A02. Uses permitted.
- 14-4A03. Uses permitted by special exception.
- 14-4A04. Storage areas for solid waste.
- 14-4A05. Uses prohibited.
- 14-4A06. Minimum lot requirements.
- 14-4A07. Minimum yard requirements.
- 14-4A08. Maximum height.
- 14-4A09. Minimum off-street parking requirements.
- 14-4A10. Signs and billboards.

**14-4A01. Residential/commercial districts.** Within the residential commercial districts as shown on the official zoning map, the regulations of these sections shall apply. (Ord. #99-716, May 1999)

**14-4A02. Uses permitted.** Any uses permitted in Residential A shall be permitted, and in addition the following uses shall be permitted, with no building exceeding three thousand (3,000) square feet in gross floor space and there shall be no storage nor display on the lot or exterior of the building other than signage allowed under § 14-4A10:

- (1) Offices.
- (2) Studios.
- (3) Clinics and similar professional uses. (Ord. #99-716, May 1999)

**14-4A03. Uses permitted by special exception.** After public notice and hearing, and subject to appropriate conditions and safeguards, the board of zoning appeals may permit, with no building exceeding three thousand (3,000) square feet in gross floor space and there shall be no storage nor display on the lot or exterior of the building other than signage allowed under § 14-4A09, the following:

(1) Neighborhood retail stores and markets including the following types of stores: food; general merchandise; apparel; furniture; household and hardware; radio and television; drug and sundries; jewelry and gifts; florists; sporting goods; and similar services.

(2) Neighborhood services including the following: barber and beauty shops; shoe repair, restaurants, radio and television repair, and similar uses.

(3) Laundry and dry cleaning establishments where no flammable or toxic chemicals are used. Anyone wishing to establish a dry cleaning facility must provide proof that the chemicals used in the cleaning processes are not flammable or toxic.

(4) Telecommunications towers and support structures. (Ord. #99-716, May 1999, as amended by Ord. #02-756, Nov. 2002)

**14-4A04. Storage areas for solid waste.** All storage areas for solid waste must be screened, secured from animals, not located on public property including public streets and sidewalks, and must be accessible to the city sanitation department. (Ord. #99-716, May 1999)

**14-4A05. Uses prohibited.** Uses not specifically permitted or permitted on appeal in §§ 14-4A02 and 14-4A03. (Ord. #99-716, May 1999)

**14-4A06. Minimum lot requirements.** Minimum lot requirements shall be as follows:

(1) Residential use: Ten thousand (10,000) square feet with a minimum lot width of eighty (80) feet and lot coverage of not more than thirty-five (35) percent.

(2) Commercial use: Ten thousand (10,000) square feet with a minimum lot width of eighty (80) feet and lot coverage of not more than thirty-five (35) percent. (Ord. #99-716, May 1999)

**14-4A07. Minimum yard requirements.** Minimum yard requirements shall be:

(1) Front: 30 ft.

(2) Side: 12 ft. for each side

(3) Rear: 30 ft. (Ord. #99-716, May 1999)

**14-4A08. Maximum height.** Maximum height from highest buildable grade to roof peak: thirty-five (35) feet or three (3) stories. (Ord. #99-716, May 1999)

**14-4A09. Minimum off-street parking.** (1) Residential: Two (2) off-street parking spaces for each dwelling unit.

(2) Schools: One (1) off-street parking space for each staff member, plus one off-street parking space for each ten (10) fixed seats in auditoriums or for each one-hundred (100) square feet of floor space in assembly rooms with movable seats.

(3) Churches, places of worship, and Sunday schools: One (1) off-street parking space for each five (5) fixed seats or for each fifty (50) square feet in assembly rooms with movable seats.

(4) Public buildings: One (1) off-street parking space for each regular employee plus adequate parking space for public use.

(5) Hospitals, clinics: One (1) off-street parking space for each two beds or each examining room table.

(6) Restaurants: One (1) off-street parking space per one hundred (100) square feet of gross floor area.

(7) Commercial, offices, and personal services: One (1) off-street parking space per two hundred (200) square feet of gross floor area. (Ord. #99-716, May 1999)

**14-4A10. Signs and billboards.** (1) Regulations concerning signs and billboards shall be the same as Residential A districts, and in addition, not more than two (2) signs with a total area of not more than six (6) square feet for any one establishment may be placed indicating the name and nature of the establishment and the kind of accommodations offered. Such sign may be mounted on the front or side of the establishment, or in front or side yards, provided that no sign shall be placed closer than ten (10) feet to any property line.

(2) No source of incandescent lighting used for illuminating signs shall be directly visible from any street or highway, or from any room used for sleeping in any residence or other place in which such room may be located. No red or green illumination in connection with any sign or means of attracting attention to any establishment shall be so located as to create the possibility of confusion with any traffic signal, and the chief or police shall be consulted in any case where a question of this kind arises before any permit for the erection of such a sign or illumination shall be granted. (Ord. #99-716, May 1999)

## CHAPTER 5

### COMMERCIAL A DISTRICTS

#### SECTION

- 14-501. Commercial A Districts.
- 14-502. Uses permitted.
- 14-503. Uses permitted on appeal.
- 14-504. Uses prohibited.
- 14-505. Minimum lot requirements.
- 14-506. Minimum yard requirements.
- 14-507. Maximum height.
- 14-508. Minimum off-street parking and off-street loading requirements.
- 14-509. Signs and billboards.

**14-501. Commercial A Districts.** Within the Commercial A Districts (Transition Business) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-501)

**14-502. Uses permitted.** (5) Offices, clinics and other professional uses, such as architect, engineer, surveyor, accountant, attorney, insurance, real estate, optical, dentist, etc.

(6) Single-family and duplex dwellings.

(7) Churches and accessory uses, subject to site plan review by planning commission.

(8) Funeral home, subject to site plan review by planning commission.

(9) Library or senior citizens center, subject to site plan review by planning commission.

(10) Child care operations, subject to site plan review by planning commission, and meeting all specific regulations thereof.

(11) Specific retail uses and services allowed are gift shop, jewelry shop, apparel shop, antique shop, bakery, floral shop, furniture shop, interior decorating shop, photography studio, craft shop, art gallery/supplies, shoe repair, beauty/barber shop--All with no outside storage or display of merchandise outdoors. (1978 Code, § 11-502, as amended by Ord. #99-724, Nov. 1999, and Ord. #00-730, Sept. 2000)

**14-503. Uses permitted on appeal.** (1) Residential care home for aged,

(2) Supplementary/accessory occupation within a residential dwelling,

(3) Multi-family residential structures,

(4) Bed and breakfast or tea room,

(5) Schools,

(6) Auction barns/houses,

may be permitted on appeal.

(7) Telecommunication towers and support structures. (1978 Code, § 11-503, as amended by Ord. #00-730, Sept. 2000; Ord. #01-734, April 2001; and Ord. #02-756, Nov. 2002)

**14-504. Use prohibited.** (1) Retail/wholesale sales uses not listed as permitted or on appeal.

(2) Gas stations and convenience markets,

(3) Grocery store,

(4) Used and new car (and other vehicles) sales, parts sales or repair.

(5) Mobile homes, mobile home parks and mobile home sales.

(6) Game room, flea market, tattoo parlor.

(7) Any other uses not specifically permitted or permissible on appeal are prohibited, unless a specific use is judged by board of zoning appeals as being similar to a listed use. (1978 Code, § 11-504, as amended by Ord. #00-730, Sept. 2000, and Ord. #01-734, April 2001)

**14-505. Minimum lot requirements.** Minimum lot requirements shall be as follows:

(1) Residential use: Same as for Residential B Districts.

(2) Other permitted uses: 7,000 square feet. (1978 Code, § 11-505)

**14-506. Minimum yard requirements.** Minimum yard requirements shall be:

(1) Front: 20 feet

(2) Side: 10 feet

(3) Rear: 20 feet

(1978 Code, § 11-506)

**14-507. Maximum height.** Maximum height shall be the same as for Residential B Districts. (1978 Code, § 11-507)

**14-508. Minimum off-street parking and off-street loading requirements.** Minimum off-street parking and loading requirements shall be as follows:

(1) Residential use: same as for Residential B Districts.

(2) Other permitted uses: one off-street parking space per 200 square feet of gross floor area. Rear or side yard shall be used for loading and unloading. (1978 Code, § 11-508)

**14-509. Signs and billboards.** Sign and billboard regulation shall be the same as for Residential B Districts. (1978 Code, § 11-509)



## CHAPTER 6

### COMMERCIAL B DISTRICTS

#### SECTION

- 14-601. Commercial B Districts.
- 14-602. Uses permitted.
- 14-603. Uses permitted on appeal.
- 14-604. Uses prohibited.
- 14-605. Minimum lot requirements.
- 14-606. Minimum yard requirements.
- 14-607. Maximum height.
- 14-608. Minimum off-street parking and off-street loading.
- 14-609. Signs and billboards.

**14-601. Commercial B Districts.** Within the Commercial B Districts (Neighborhood Shopping) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-601)

**14-602. Uses permitted.** Any structure or use permitted in Commercial A District (except that all residential uses shall be prohibited in this district) shall be permitted and in addition:

(1) Neighborhood retail stores and markets, including the following types of stores: food; general merchandise; apparel; furniture; household and hardware; radio and television; drug and sundries; jewelry and gifts; florists; sporting goods; and similar uses.

(2) Neighborhood services including the following: barber and beauty shops; shoe repair, restaurants and similar uses.

(3) Any accessory use or building customarily incidental to the above permitted uses.

(4) Child day care facilities, subject to specific requirements of chapter 18. (1978 Code, § 11-602, as amended by Ord. #99-724, Nov. 1999)

**14-603. Uses permitted on appeal.** The following uses may be permitted on appeal:

(1) Service stations; provided, however, the gasoline storage above ground in excess of five hundred (500) gallons is prohibited, and provided there is no major auto repair.

(2) Laundry and dry cleaning establishments.

(3) Residential use incidental to and not inconsistent with commercial use otherwise permitted by this chapter, provided that such residential use shall be by the owner or employee of the commercial establishment at the site of the requested required use and that residential use will not be detrimental to or inconsistent with other uses in the immediate area thereof.

(4) Light industry where the proposed use, in the opinion of the board of zoning appeals, will not be detrimental to the area in which it is located. In determining the suitability of the proposed use, the board of zoning appeals may

study the particular nature of the use with regard to parking, emergency services, employment, environmental conditions such as noise, smoke, gas, vibrations, fumes, dust or other objectionable conditions, storage of combustible materials and such other factors as may, under the circumstances, be pertinent to whether the proposed use is compatible with the surrounding area.

(5) Telecommunication towers and support structures.

(6) After public notice and hearing, subject to appropriate safeguards and conditions and approval by the Sparta Board of Zoning Appeals, the board of zoning appeals may permit construction of a new building or rehabilitation of an existing building in the Commercial B Neighborhood Shopping District for multi-family residential/apartment uses or mixed commercial-multi-family residential uses.

When reviewing applications for such uses, the board of zoning appeals shall consider the overall effect of the proposal to the area and surrounding properties so that there will not be a detrimental effect to the stability and viability of the district.

In determining the effect of the proposal to the area, the board of zoning appeals must evaluate the number of units proposed, availability of off-street parking, provisions for solid waste storage, availability of utilities, and the city's capacity to respond effectively to emergencies.

In addition, the following conditions must also be met:

(1) Site plan and floor plans must be submitted to the board of zoning appeals.

(2) Off-street parking must be provided at a ratio of 1.5 spaces per unit, located within a reasonable walking distance, and designed so that no vehicle is required to back onto a public thoroughfare.

(3) A minimum square footage per dwelling unit of 500 square feet for a one-bedroom unit, 675 square feet for a two-bedroom unit, and 900 square feet for a three-bedroom unit must be provided.

(4) All municipal building and fire codes must be adhered to.

(5) Storage areas for solid waste must be screened, secured from animals, not located on public property including public streets and sidewalks, and must be accessible to the city sanitation department. (1978 Code, § 11-603, as amended by Ord. #02-756, Nov. 2002)

**14-604. Uses prohibited.** Uses not specifically permitted or permitted on appeal in § 14-603. (1978 Code, § 11-604)

**14-605. Minimum lot requirements.** It is the intent of chapters 2 through 14 of this title that lots of sufficient area and width be used for any business or service use to provide adequate parking and loading space in addition to the space required for the normal operations of the business or service. (1978 Code, § 11-605)

**14-606. Minimum yard requirements.** Minimum yard requirements shall be:

(1) Front: 20 feet

- (2) Rear: 20 feet
- (3) Side: None, except wherever this district adjoins a residential district without an intervening street or alley, a side yard shall be provided on the side adjoining the residential district corresponding in its dimensions to those required in the residential district. (1978 Code, § 11-606)

**14-607. Maximum height.** Maximum height shall be 35 feet or 3 stories. (1978 Code, § 11-607)

**14-608. Minimum off-street parking and off-street loading.** Minimum off-street parking and off-street loading requirements shall be as follows:

- (1) Restaurants: one off-street parking space per 100 square feet of gross floor area.
- (2) Commercial and personal services, offices: one off-street parking space per 200 square feet of gross floor area. Adequate off-street loading space shall be provided so that no part of any commercial vehicle shall encroach upon any street, alley, sidewalk, or public way during loading, unloading, or servicing operations. (1978 Code, § 11-608)

**14-609. Signs and billboards.** Signs and billboards are permitted to the following limitations:

- (1) All signs and billboards except those erected by governmental agencies shall be erected on private property and shall not encroach upon any public street, walk, alley or way, provided that such signs when approved by the city may be erected to overhang a public street, walk, alley or way at a height not less than nine feet.
- (2) No source of incandescent lighting used for illuminating signs shall be directly visible from any street or highway, or from any room used for sleeping in any residence, hotel, or other place in which such room may be located. No red or green illumination in connection with any sign or means of attracting attention to any establishment shall be so located as to create the possibility of confusion with any traffic signal, and the chief of police shall be consulted in any case where a question of this kind arises before any permit for the erection of such sign or illumination shall be granted. (1978 Code, § 11-609)

## CHAPTER 7

### COMMERCIAL C DISTRICTS

#### SECTION

- 14-701. Commercial C Districts.
- 14-702. Uses permitted.
- 14-703. Uses permissible upon appeal.
- 14-704. Uses prohibited.
- 14-705. Minimum lot requirements.
- 14-706. Minimum yard requirements.
- 14-707. Maximum height.
- 14-708. Signs and billboards.

**14-701. Commercial C Districts.** Within the Commercial C District (Central Business) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-701)

**14-702. Uses permitted.** Any structure or use permitted in Commercial B Districts (except that gasoline service stations shall be prohibited in this district) shall be permitted and in addition:

- (1) Retail stores.
- (2) Eating and drinking establishments.
- (3) Financial institutions.
- (4) Recreational structures and uses, including theaters, pool halls, and auditoriums.
- (5) Garage for sales, storage, motor vehicle sales rooms, subject to the provisions of § 14-211.
- (6) Business or commercial schools.
- (7) Bus stations.
- (8) Hotels and similar uses.
- (9) Child day care facilities, subject to specific requirements of chapter 18.

Customary accessory uses and structures, except that no such accessory use shall be of a nature prohibited as a principal use, shall be permitted. (1978 Code, § 11-702, as amended by Ord. #99-724, Nov. 1999)

**14-703. Uses permissible upon appeal.** After public notice and hearing, subject to appropriate safeguards and conditions and approval by the Sparta Board of Zoning Appeals, the board of zoning appeals may permit telecommunication towers and support structures, construction of a new building or rehabilitation of an existing building in the Commercial C District for multi-family residential/apartment uses or mixed commercial-multi-family residential uses.

When reviewing applications for such uses, the board of zoning appeals shall consider the overall effect of the proposal to the area and surrounding properties so that there will not be a detrimental effect to the stability and viability of the business district.

In determining the effect of the proposal to the area, the board of zoning appeals must evaluate the number of units proposed, availability of off-street parking, provisions for solid waste storage, availability of utilities, and the city's capacity to respond effectively to emergencies.

In addition, the following conditions must also be met:

(1) Site plan and floor plans must be submitted to the board of zoning appeals.

(2) Off-street parking must be provided at a ratio of 1.5 spaces per unit, located within a reasonable walking distance, and designed so that no vehicle is required to back onto a public thoroughfare.

(3) A minimum square footage per dwelling unit of 500 square feet for a one-bedroom unit, 675 square feet for a two-bedroom unit, and 900 square feet for a three-bedroom unit must be provided.

(4) All municipal building and fire codes must be adhered to.

(5) Storage areas for solid waste must be screened, secured from animals, not located on public property including public street and sidewalks, and must be accessible to the city sanitation department. (1978 Code, § 11-703, as amended by Ord. #02-756, Nov. 2002)

**14-704. Uses prohibited.** These uses are prohibited: Truck terminals; storage warehouses and yards; junkyards; machine shops; second hand automobile storage and sales yards; service stations; stone yards or monument works; all uses or structures not of a nature specifically permitted herein; and any use dangerous or offensive because of odor, smoke, noise, glare, fumes, gas, fire or vibration, or hazardous because of danger of fire or explosion. (1978 Code, § 11-704)

**14-705. Minimum lot requirements.** There shall be no minimum lot requirements. (1978 Code, § 11-705)

**14-706. Minimum yard requirements.** There shall be no minimum yard requirements, except as needed to provide adequate off-street loading and unloading spaces and provide off-street parking where on-street parking is not available. (1978 Code, § 11-706, as amended by Ord. #00-730, Sept. 2000)

**14-707. Maximum height.** Maximum height shall be 65 feet or 5 stories. (1978 Code, § 11-707)

**14-708. Signs and billboards.** Regulations regarding signs and billboards shall be the same as for Commercial B Districts. (1978 Code, § 11-708)

## CHAPTER 8

### COMMERCIAL D DISTRICTS

#### SECTION

- 14-801. Commercial D Districts.
- 14-802. Uses permitted.
- 14-803. Uses permitted on appeal.
- 14-804. Uses prohibited.
- 14-805. Minimum lot requirements.
- 14-806. Minimum yard requirements.
- 14-807. Maximum height.
- 14-808. Minimum off-street parking and off-street loading requirements.
- 14-809. Signs and billboards.

**14-801. Commercial D Districts.** Within the Commercial D District (General Business) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-801)

**14-802. Uses permitted.** Any structure or use permitted in the Commercial C District shall be permitted, and in addition:

- (1) Motels.
- (2) Service stations.
- (3) Mortuaries and funeral homes.
- (4) Stores specializing in second-hand merchandise.
- (5) Storage warehouses except as provided under § 14-804.
- (6) Second-hand automobile sales yards, subject to the provisions of § 14-211, and uses of a similar nature.

Customary accessory uses and structures shall be permitted, except that no such accessory use shall be of a nature prohibited as a principal use.

(7) Child day care operations, in accordance with specific regulations found in chapter 18.

(8) Retail sales of building materials and supplies.

(9) Flea markets. (1978 Code, § 11-802, as amended by Ord. #99-724, Nov. 1999)

**14-803. Uses permitted on appeal.** After public notice and hearing and subject to appropriate conditions and safeguards, the board of zoning appeals may permit:

- (1) Any use permitted in Residential B Districts;
- (2) Light industry where the proposed use in the opinion of the board of zoning appeals will not be detrimental to the area in which it is to be located. In determining the suitability of the proposed use the board of zoning appeals

may study the particular nature of the use with regard to parking, emergency services, employment environmental conditions such as noise, smoke, gas, vibrations, fumes, dust or other objectionable conditions, storage of combustible materials, and such other factors as may under the circumstances be pertinent to whether the proposed use is compatible with the surrounding area.

(3) Retail sales of farm supplies including feeds, fertilizers, farm equipment, and similar products normally associated with the farm supply business where the proposed use, in the opinion of the board of zoning appeals, will not be detrimental to the area in which it is located. In determining the suitability of the proposed use, the board of zoning appeals will study the particular use with regard to parking, truck traffic, environmental conditions such as safe storage and containment of products on site, noise, gas, vibrations, fumes, dust, or other objectionable conditions, and such other factors as may, under the circumstances, be pertinent to whether the proposed use is compatible with the surrounding area.

(4) Telecommunication towers and support structures. (1978 Code, § 11-803, as amended by Ord. #02-756, Nov. 2002)

**14-804. Uses prohibited.** The following uses shall be prohibited:

- (1) Storage yards.
- (2) Bulk storage or sales of fuels or gasoline.
- (3) Junk yards.
- (4) Scrap and salvage yards.
- (5) Machine shops.
- (6) Stone or monument works, and all uses and structures not of a nature specifically or provisionally permitted herein; and any use dangerous or offensive because of odor, smoke, noise, flare, fumes, gas, fire or vibration or hazardous because of danger of fire or explosion. (1978 Code, § 11-804)

**14-805. Minimum lot requirements.** Minimum lot requirements shall be:

- (1) Residences: same as for Residential B Districts.
- (2) Other permitted uses: same as for Commercial B Districts. (1978 Code, § 11-805)

**14-806. Minimum yard requirements.** Minimum yard requirements shall be:

- (1) Front: 25 feet
- (2) Rear: 20 feet
- (3) Side: None required except for residential use, but if a side yard is provided it shall not be less than ten feet in width: except whenever a lot in this district adjoins a residential district without an intervening street or alley, a side yard shall be provided on the side adjoining the residential district corresponding in its dimensions or those required in the residential districts. (1978 Code, § 11-806)

**14-807. Maximum height.** Maximum height shall be 45 feet or 5 stories. (1978 Code, § 11-807)

**14-808. Minimum off-street parking and off-street loading requirements.**

(1) Off-street parking: same as for Residential B, Commercial A, and Commercial B for uses permitted herein, and for other permitted uses as follows:

(a) Retail stores: one space for each two workers, plus one space per 300 square feet of gross floor area.

(b) Financial institutions: one space for each two employees, plus one space per 300 square feet of floor space open to the public.

(c) Funeral homes: one space for each two employees, plus one space for each ten seats available for public use.

(d) All other permitted uses: one space for each two employees regularly working, plus additional space as determined by the board of zoning appeals.

(2) Off-street loading: no curb loading or unloading on any state or U.S. highway. Off-street loading and unloading space shall be laid out, regulated, and controlled so as to prevent use of the street or highway for maneuvering incidental to loading or unloading. (1978 Code, § 11-808)

**14-809. Signs and billboards.** Regulations regarding signs and billboards shall be the same as for Commercial C, with the additional provision that no such, poster, billboard or other advertising matter or device shall be erected in any required front yard. (1978 Code, § 11-809)



## CHAPTER 9

### INDUSTRIAL M-I DISTRICTS

#### SECTION

- 14-901. Industrial M-I Districts.
- 14-902. Uses permitted.
- 14-903. Uses permitted on appeal.
- 14-904. Uses prohibited.
- 14-905. Yards, street access and frontage, lot coverage, off-street parking requirements.
- 14-906. Maximum height.
- 14-907. Repealed.
- 14-908. Signs and billboards.

**14-901. Industrial M-I Districts.** Within the Industrial M-I Manufacturing-Industry) as shown on the official zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-901)

**14-902. Uses permitted.** (1) Any industrial or manufacturing use shall be permitted, except those which in the opinion of the codes enforcement officer would cause noise, smoke, gas, vibration, fumes, dust, or other objectionable conditions that would affect a considerable portion of the city.

(2) Child day care facilities, subject to specific requirements of chapter 18. (1978 Code, § 11-902, as amended by Ord. #99-724, Nov. 1999)

**14-903. Uses permitted on appeal.** Any use permitted in commercial districts which in the opinion of the board of zoning appeals will not be detrimental to the district in which located may be permitted on appeal, including telecommunication towers and support structures, subject to conditions and safeguards as may be required by the board of zoning appeals; and in addition, auto wrecking or junk yards and above ground gasoline or oil storage may be permitted on appeal subject to conditions as may be required by the board of zoning appeals. (1978 Code, § 11-903, as amended by Ord. #02-756, Nov. 2002)

**14-904. Uses prohibited.** All residential uses are prohibited. (1978 Code, § 11-904)

**14-905. Yards, street access and frontage, lot coverage, off-street parking requirements.** (1) Required Yards. No principal or accessory building above grade shall be located less than 200 feet from the boundary of any residential zone.

(2) No parking area or loading area shall be located:

(a) Less than 200 feet from the boundary of any residential zone, except that employee or visitor parking shall be permitted not less than 50 feet from the common boundary of the residential zone in accordance with the provisions of Section D-2.

(b) Less than 10 feet from any lot line which adjoins an industrial zone or commercial zone.

(3) No principal or accessory building shall be located less than the following minimum distances from the street right-of-way line or proposed street right-of-way of the following types of streets or highways as designated on the Sparta Major Road Plan or by the Sparta Planning Commission (hereinafter referred to as "planning commission") where no such plan exists:

(a) Controlled Access Routes

From a freeway .....50 feet

From an express parkway.....50 feet

Major highway

(with or without service roads).....50 feet

(B) Local Access Routes

Arterial street separating the

Industrial Zone from a Residential  
Zone.....100 feet

Arterial street separating the

Industrial Park from a Commercial  
Zone..... 25 feet

From a local street, arterial street,  
or a private way through an

Industrial Park.....25 feet

(4) Street access and frontage. Each lot shall have a minimum frontage of 150 feet on a street; provided, however, that the board of zoning appeals may approve a lesser frontage to a minimum of 50 feet for lots located on cul-de-sacs or on street curves or having other extraordinary characteristics. Vehicular access shall be permitted only to one of the following types of streets:

(a) Controlled access routes:

Major highways

(b) Local access routes:

(1) Major highways

(2) Connecting or secondary (arterial) highway.

(3) A local street or private way connecting only with any of the above highways and not directly connected with any residential street.

(5) The designation of any street or highway as to type shall be in conformance with that shown on the officially adopted major road plan.

(6) For the purposes of the above section, streets and highways shall be defined as follows:

(a) "Freeway." A divided highway for through traffic with full control of access with grade separations at intersections.

(b) "Express parkways." Same as freeway except that use is limited to non-commercial traffic and is usually located within a park or a ribbon of parklike development.

(c) "Major highway, controlled." A divided highway with parallel service roads which may or may not be continuous and with access connections limited to selected public roads at grade.

(d) "Major highway." A divided highway with intersections at grade and direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.

(e) "Connecting or secondary (arterial) highway." Same as major highway but not necessarily divided. Function is to provide connection between major highways and controlled access routes.

(f) "Local street or private way." A way used primarily to connect a lot or lots in the industrial zone with a public street or road outside the zone.

(7) Lot coverage. Not more than forty percent of the area of the lot may be covered by buildings, including accessory buildings.

(8) Off-street parking requirements. Off-street parking shall be provided in accordance with the general provisions set forth, and all permitted uses shall conform to the schedule for an industrial or manufacturing establishment or warehouse or similar use, the minimum requirement shall be one parking space for each one and one-half employees, or one for each two employees on combined major and second shifts, and in addition one visitor parking space for every 20 employees, except that the board of zoning appeals may authorize fewer visitor parking spaces if it finds that a fewer number will be sufficient for the operation anticipated. In addition to the foregoing, one parking space shall be provided for each company-owned or -leased truck, passenger car or other vehicle located or principally based on the premises. No parking spaces may be located within required yards, except in accordance with the provisions contained herein. Off-street parking spaces may be grouped in facilities serving more than one lot or establishment.

(9) When the lot on which parking spaces are located abuts the rear or side lot line of any land in a residential zone and is less than the required 200 feet, a wall, fence or evergreen planting shall be maintained so as to screen substantially the parking lot from view from the nearest property in the residential zone. The screening shall be maintained in

good condition at all times. In parking lots of one acre or more, at least 5% of the area of the parking lot shall be devoted to landscaping within the interior of the parking area. No luminaries on parking lots shall be more than 20 feet above ground level. (1978 Code, § 11-905, as amended by Ord. #03-774, Jan. 2004)

**14-906. Maximum height.** Maximum height shall be 65 feet or 5 stories. (1978 Code, § 11-906)

**14-907. Minimum off-street parking and off-street loading requirements.** Minimum off-street parking and loading requirements shall be the same as for Commercial D Districts. (1978 Code, § 11-907)

**14-908. Signs and billboards.** Sign and billboard requirements shall be the same as for Commercial D Districts. (1978 Code, § 11-908)

## CHAPTER 10

### **MOBILE HOMES, MOBILE HOME PARKS, AND PORTABLE COMMERCIAL STRUCTURES**

#### **SECTION**

- 14-1001. Where permitted.
- 14-1002. Mobile home subdivision.
- 14-1003. Application for mobile home park.
- 14-1004. Contents of application; license and fee.
- 14-1005. Maximum number of spaces.
- 14-1006. Dimensions of spaces, yards; parking.
- 14-1007. Buffer strip.
- 14-1008. Additional requirements.
- 14-1009. Fire prevention.
- 14-1010. Additions to mobile homes--parking restrictions.
- 14-1011. Revocation of license.
- 14-1012. Use of portable commercial structures.

**14-1001. Where permitted.** In residential "B" districts, mobile homes are permitted in mobile home parks only, subject to the provisions of this chapter set forth hereinafter, further provided that all applicable subdivision regulations, housing and building code provisions, and state and federal laws are complied with. (1978 Code, § 11-1001, as amended by Ord. #00-730, Sept. 2000)

**14-1002. Mobile home subdivision.** Mobile home subdivisions shall comply with all subdivision regulations set out in the Sparta, Tennessee Subdivision Regulations. (1978 Code, § 11-1002)

**14-1003. Application for mobile home parks.** Applications for mobile home parks shall be presented to the codes enforcement officer and approved by him prior to submission to the Tennessee Commissioner of Public Health or his duly authorized representative as required by Tennessee Code Annotated, §§ 53-3201 through 53-3220 and the "Trailer Court Regulations" of the Tennessee Department of Health. (1978 Code, § 11-1003)

**14-1004. Contents of application; license and fee.** (a) An application for a mobile home park shall consist of a map drawn to a scale no smaller than one inch equals one-hundred feet setting forth thereon the geographical location, boundaries, drainage, buildings, and sanitation facilities such as the location of water and sewer lines and the number, location and size of all mobile home spaces.

(b) The application shall be accompanied by a non-refundable application fee of \$25.00, which shall constitute payment in full for the license to operate a mobile home park for the first year. That, upon approval by the

Tennessee Commissioner of Public Health as provided in § 14-1003, the applicant shall be issued a license which shall be automatically renewable annually in the absence of violations of this chapter by the licensee at an annual license fee of \$25.00.

(c) That funds generated by the applications or license renewals hereunder shall be designated to codes enforcement for financing of enforcement of the provision hereof. (1978 Code, § 11-1004)

**14-1005. Maximum number of spaces.** There shall be a maximum of nine (9) mobile home spaces per acre in mobile home parks. (1978 Code, § 11-1005)

**14-1006. Dimensions of spaces, yards; parking.** Each mobile home space in a mobile home park shall have a minimum width of (32) thirty-two feet with end parking of automobile, forty-two (42) feet with side parking of automobiles, except that where mobile homes wider than fourteen (14) feet are anticipated the width of the lot shall be equal to the width of the mobile home plus thirty (30) feet.

Each mobile home space shall have a depth of ninety (90) feet with end parking of automobiles and eighty (80) feet with side parking of automobiles. The minimum front yard shall be fifteen (15) feet from toe hitch and the minimum side yards shall be fifteen feet (15). No mobile home shall be located closer than thirty (30) feet to any public street or highway. (1978 Code, § 11-1006)

**14-1007. Buffer strip.** A planted buffer strip, not less than twenty (20) feet in width shall be located along the property lines of the mobile home park, except across driveways and streets. (1978 Code, § 11-1007)

**14-1008. Additional requirements.** In addition to the above requirements, mobile home parks must meet the following requirements:

(1) A minimum of fifty (50) percent of the total number of mobile home spaces in the proposed park shall be available for occupancy before any mobile home space may be occupied by a mobile home.

(2) There shall be only one mobile home per mobile home space.

(3) Every mobile home space shall abut a driveway with unobstructed access to an open, approved public street.

(4) No part of any mobile home shall be located more than five hundred (500) feet from a fire hydrant.

(5) Each mobile home park shall provide at least one off-street parking space for each mobile home space plus an additional space for each four mobile homes to provide for guest parking, families owning two cars, and delivery and service vehicles. Insofar as practical, one car space shall be located on each lot and the remainder in adjacent parking bays.

(6) Roads shall conform to the following standards:

No. of Homes Served	Parking	Street Paving Width
One-way, serving less than 20 lots	None	14 ft.
	One side	16 ft.
	Both sides	23 ft.
Two-way, serving less than 40 lots	None	18 ft.
	One side	25 ft.
	Both sides	32 ft.
Serving 40 or more lots	None	20 ft.
	One side	27 ft.
	Both sides	34 ft.

(7) The storage, collection and disposal of refuse shall be so managed as to create no health hazards, rodent harborage or insect breeding areas. Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped.

(8) The mobile home park water distribution system shall be connected to the public water supply system.

(9) All water piping, fixtures, and other equipment shall be so constructed and maintained in accordance with state and local regulations and requirements and shall be of the type and location approved by the State Health Department.

(10) An adequate and safe sewerage system shall be required for conveying and disposing of all sewage. Whenever feasible, connection shall be made to the public sewerage system.

(11) The sewerage system shall be designed and constructed in accordance with state and local laws, and shall be approved by the county health officer. (1978 Code, § 11-1008)

**14-1009. Fire prevention.** The mobile home park shall be subject to the rules and regulations of the fire prevention authorities having jurisdiction. (1978 Code, § 11-1009)

**14-1010. Additions to mobile homes--parking restrictions.** No permanent additions of any kind shall be built onto, nor become a part of, any mobile home. Skirting of mobile homes is permissible, but such skirting shall not permanently attach the mobile home to the ground, providing a harborage for rodents or create a fire hazard. (1978 Code, § 11-1010)

**14-1011. Revocation of license.** The codes enforcement officer shall make periodic inspection of the park to assure compliance with this chapter. In case of noncompliance with any provisions of this chapter the codes enforcement officer shall serve written warning to the licensee. Thereafter upon failure of

the licensee to remove said violation, within 30 days after receipt of written warning, the codes enforcement officer shall have authority to revoke the offending park's license. The license may be reissued if the circumstances leading to revocation have been remedied and the park can be maintained and operated in full compliance with the law. (1978 Code, § 11-1011)

**14-1012. Use of portable commercial structures.** (1) The purpose of this section is to provide for the installation of portable commercial structures in situations where the owner of the business may own the property from which the business will operate but does not wish to install a permanent structure on it or in situations where the owner of the business does not own the property on which the business will operate from and therefore, does not desire to erect a permanent structure on the site.

(2) Portable commercial structures may be constructed so as to provide for future removal from the site upon which they are installed in the event their use is no longer needed, required, or necessary. Construction of portable commercial structures shall be in accordance with all applicable building codes, ordinances, and regulations. Structures which meet the requirement of the Tennessee Modular Building Act as provided for by Tennessee Code Annotated, § 68-126-301 through 309 shall also be allowed.

(3) Portable commercial structures being lawfully installed and used at the time of adoption of this section shall be grandfathered for their current use as to the provisions contained herein.

(4) Structures qualifying for the grandfather provisions of § 14-1012(3) above which cease to be used for the purposes for which they were originally permitted for a period of six (6) months shall thereafter be required to meet all codes and regulations which are applicable for the type use intended for the structure. (1978 Code, § 11-1012, as replaced by Ord. #02-761, Dec. 2002)



## CHAPTER 11

### MUNICIPAL FLOOD DAMAGE PREVENTION ORDINANCE

#### SECTION

- 14-1101. Statutory authorization, findings of fact, purpose and objectives.
- 14-1102. Definitions.
- 14-1103. General provisions.
- 14-1104. Administration.
- 14-1105. Provisions for flood hazard reduction.
- 14-1106. Variance procedures.
- 14-1107. Legal status provisions.

**14-1101. Statutory authorization, findings of fact, purpose and objectives.** (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201 through 13-7-210 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Sparta, Tennessee, Mayor and Board of Aldermen, do ordain as follows:

(2) Findings of fact. (a) The City of Sparta, Tennessee, Mayor and Board of Aldermen wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the City of Sparta, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

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

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

(4) **Objectives.** The objectives of this ordinance are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

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

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

(h) To maintain eligibility for participation in the NFIP. (1978 Code, § 11-1101, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

**14-1102. Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage;

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

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

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures;

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

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

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

(6) "Area of special flood hazard" see "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

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

(9) "Building" see "structure."

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

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

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with

section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

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

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

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

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

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

(a) The overflow of inland or tidal waters;

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

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

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

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

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

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

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

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

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

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

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

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

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

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood

heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

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

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

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

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

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

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

(d) Individually listed on the City of Sparta, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

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

(ii) Directly by the Secretary of the Interior.

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

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

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

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

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

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

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

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

(48) "100-year flood" see "base flood."

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

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

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

(a) Built on a single chassis;

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

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

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

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

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

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

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

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.



(58) "Structure," for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

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

(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

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

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

(62) "Variance" is a grant of relief from the requirements of this ordinance.

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

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various

magnitudes and frequencies in the floodplains of riverine areas. (1978 Code, § 11-1102, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

**14-1103. General provisions.** (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Sparta, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Sparta, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) 47185C0155D, 47185C0165D, 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 Sparta, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by

Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Sparta, Tennessee from taking such other lawful actions to prevent or remedy any violation. (1978 Code, § 11-1103, as replaced by Ord. #06-814, Oct. 2006, amended by Ord. #07-825, Sept. 2007, and replaced by Ord. #10-847, May 2010)

**14-1104. Administration.** (1) Designation of ordinance administrator. The building official is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-1105(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest

adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

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

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

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

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-1104(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-1104(2).

(h) When floodproofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee

registered professional engineer or architect, in accordance with § 14-1104(2).

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

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Sparta, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (1978 Code, § 11-1104, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

**14-1105. Provisions for flood hazard reduction.** (1) General standards. In all areas of special flood hazard, the following provisions are required:

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

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

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

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-1105(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-1105(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the

administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1102). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-1102). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-1104(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria:

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-1105(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

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

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-1102).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-1105(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:



(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

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

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-1105(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-1103(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during

the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Sparta, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1105(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-1103(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1105(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-1103(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-1105(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or

floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1102). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-1104(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-1105(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Sparta, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1105(1) and (2). Within approximate A Zones, require that those subsections of § 14-1105(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-1103(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-1105(1) and (2), apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-1105(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be

floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-1104(2).

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

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-1103(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-1104 and 14-1105 shall apply.

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

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

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-1104 and 14-1105. (1978 Code, § 11-1105, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

**14-1106. Variance procedures.** (1) Municipal board of zoning appeals.

(a) Authority. The City of Sparta, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times as the board shall determine. All

meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty (\$50.00) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Sparta, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance; and

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

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

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-1106(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would

result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (1978 Code, § 11-1106, as replaced by Ord. #06-814, Oct. 2006, and Ord. #10-847, May 2010)

**14-1107. Legal status provisions.** (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Sparta, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (as added by Ord. #06-814, Oct. 2006, and replaced by Ord. #10-847, May 2010)

## CHAPTER 12

### **HISTORIC (H-1) DISTRICTS**

#### **SECTION**

14-1201. H-1 (Historic) District.

14-1202. Uses permitted.

14-1203. Mobile homes and dish antennas.

**14-1201. H-1 (Historic) District.** It is the intent of this district to preserve historical buildings and sites in the City of Sparta. The requirements of the district are designed to protect and preserve historic and/or architectural value; provide protection from uses that would lessen the significance of the surrounding uses; create an aesthetic atmosphere; stabilize property values; enhance civic beauty; strengthen the economy, and promote education and patriotic heritage of the present and future citizens of the community. (1978 Code, § 11-11A01)

**14-1202. Uses permitted.** In order to achieve the intent of the H-1 (Historic) District, as shown on the Zoning Map of Sparta, the following uses are permitted: Any use permitted or allowable as a special exception in the underlying zoning district provided that no building permit for construction, alteration, repair, moving, or demolition of any structure or any changes or improvements in the townscape within the district shall be issued by the building inspector until it is submitted to and receives approval in writing by the historic zoning commission. The historic zoning commission may, however, prepare a listing of prior approvals permitted in the historic district. (1978 Code, § 11-11A02)

**14-1203. Mobile homes and dish antennas.** No mobile homes or dish antennas are permitted in the historic district. (1978 Code, § 11-11A03)



## CHAPTER 13

### ADMINISTRATION AND ENFORCEMENT

#### SECTION

- 14-1301. Administration and enforcement.
- 14-1302. Building permits required.
- 14-1303. Application for building permit.
- 14-1304. Site plan regulations for commercial, industrial, and multi-family residential uses.
- 14-1305. Certificates of zoning compliance for new, altered, or non-conforming uses.
- 14-1306. Expiration of building permit.
- 14-1307. Construction and use to be as provided in applications, plans, permits, and certificates of zoning compliance.
- 14-1308. Fees, charges, and expenses.
- 14-1309. Amendments.
- 14-1310. Provisions to be minimum requirements.
- 14-1311. Complaints; procedure.
- 14-1312. Violations and penalties.

**14-1301. Administration and enforcement.** The codes enforcement officer shall administer and enforce chapters 2 through 14 of this title. He may be provided with the assistance of such other persons as the board of mayor and aldermen may direct.

If the codes enforcement officer shall find that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by chapters 2 through 14 of this title to insure compliance with or to prevent violation of its provisions. (1978 Code, § 11-1201)

**14-1302. Building permits required.**<sup>1</sup> No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the codes enforcement officer. No building permit shall be issued except in conformity with the provisions of chapters 2 through 14 of this title, except after written order from the board of zoning appeals. (1978 Code, § 11-1202)

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<sup>1</sup>Municipal code reference  
Building code: title 12.

**14-1303. Application for building permit.** All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact size and locations on the lot of buildings already existing, if any; and the locations and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the codes enforcement officer, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determined conformance with, and provide for the enforcement of chapters 2 through 14 of this title.

One copy of the plans shall be returned to the applicant by the codes enforcement officer after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The second copy of the plans, similarly marked, shall be retained by the codes enforcement officer. (1978 Code, § 11-1203)

**14-1304. Site plan regulations for commercial, industrial, and multi-family residential uses.** It is the general purpose and intent of this section to require site plans for all new developments or redevelopments of commercial, industrial, public and semi-public, and multi-family (three family or more) residential uses to provide for a lessening of traffic congestion and for securing adequate light, air, and aesthetic conditions for residents of the city. These plans shall be approved by the building official or codes officer prior to the issuance of grading or building permits. Site plans for small additions to existing buildings shall be exempt from review when, in the opinion of the building inspector, the addition will not adversely affect the general purpose and intent of these regulations. The site plan shall set forth the proposal for development of the total land tract according to the following specifications and conditions:

(1) Site plans shall be prepared by a licensed engineer, architect, landscape architect, or surveyor.

(2) Topography of existing and finished grades at two (2) foot intervals.

(3) Location of areas as defined by the codes enforcement officer that are subject to flooding. Site plan shall include a storm water drainage plan.

(4) Location of existing buildings, streets, sidewalks, easements and rights-of-way, and covenants.

(5) Include a plan for vehicular and pedestrian circulation.

(6) Location of all structures including signs. Sign details shall include elevation drawings.

(7) Utility plans for water, sewer, and power. Power service connections shall be located at the rear of the structure or structures, where feasible.

(8) Plans for landscaping, screening, open space and ingress-egress points. If applicable, the landscaping plan shall include design details for off-street parking areas with the following information:

(a) Street frontage.

(b) Interior landscaping.

(c) Perimeter landscaping.

(d) The parking spaces shall be designed and constructed in a manner that will prevent damage to the landscaping by vehicles or pedestrian traffic.

(e) The plan shall contain a description of any plants and material proposed for use.

(f) The landscaping shall be permanently maintained.

(g) A plan for frontage or parallel access street, if applicable.

(9) General requirements of a north arrow, a scale of not less than 1"= 20 feet, a location map, acreage of site, location of solid waste collection points, and any other information deemed pertinent by the codes enforcement officer. (1978 Code, § 11-1203A)

**14-1305. Certificates of zoning compliance for new, altered, or non-conforming uses.** It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the codes enforcement officer stating that the proposed use of the building or land conforms to the requirements of chapters 2 through 14 of this title.

No non-conforming structure or use shall be maintained, renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the codes enforcement officer. This certificate of zoning compliance shall state the provisions of chapters 2 through 14 of this title, provided that upon enactment or amendment of chapters 2 through 14 of this title, owners or occupants of non-conforming uses shall have three months to apply for certificates of zoning compliance. Failure to make such application within three months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of chapters 2 through 14 of this title.

No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of chapters 2 through 14 of this title upon completion of the work.

A temporary certificate of zoning compliance may be issued by the administrative official for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.

The administrative official shall maintain a record of all certificates of zoning compliance, and copies shall be furnished upon request to any person.

Failure to obtain a certificate of zoning compliance shall be a violation of this chapter and punishable under the general penalty clause for this code. (1978 Code, § 11-1204)

**14-1306. Expiration of building permit.** If the work described in any building permit has not begun within 90 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the codes enforcement officer, and written notice thereof shall be given to the persons affected.

If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the codes enforcement officer, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained. (1978 Code, § 11-1205)

**14-1307. Construction and use to be as provided in applications, plans, permits, and certificates of zoning compliance.** Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of chapters 2 through 14 of this title and punishable as provided by the general penalty clause for this code. (1978 Code, § 11-1206)

**14-1308. Fees, charges, and expenses.** Regulations concerning collection of costs, charges, fees and expenses in connection with building permits, certificates of occupancy and appeals procedures shall be established by the board of mayor and aldermen.

A fee of fifty dollars (\$50.00) shall be paid at the time the application is submitted by persons making requests of the Sparta Municipal Planning Commission for rezoning, special exceptions and variances.

No permit, certificate, exception or variance shall be issued unless and until any such costs, charges, fees or expenses in excess of the fifty dollar (\$50.00) application fee have been paid in full, nor shall any action be taken or proceedings before the board of zoning appeals unless or until preliminary charges have been paid in full. (1978 Code, § 11-1207, as amended by Ord. #09-836, April 2009)

**14-1309. Amendments.** The regulations, restrictions and boundaries set forth in chapters 2 through 14 of this title may from time to time be amended, supplemented or changed; provided, however, that no such action may

be taken until each proposed change be first submitted to and approved by the planning commission, or if disapproved, shall receive the favorable vote of a majority of the entire membership of the board of mayor and aldermen. Before enacting any amendment, the board of mayor and aldermen shall hold a public hearing thereon, at least fifteen days notice of the time and place of which shall be published in a newspaper of general circulation in the City of Sparta. (1978 Code, § 11-1208)

**14-1310. Provisions to be minimum requirements.** In their interpretation and application, the provisions of chapters 2 through 14 of this title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of chapters 2 through 14 of this title are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the higher standards, shall govern. (1978 Code, § 11-1209)

**14-1311. Complaints; procedure.** Whenever a violation of chapters 2 through 14 of this title occurs, any person may file a complaint in regard thereto, which complaint shall be in writing and shall be filed with the codes enforcement officer, who shall properly record such complaint and immediately investigate, and take action thereon as provided by chapters 2 through 14 of this title. (1978 Code, § 11-1210)

**14-1312. Violations and penalties.** Violation of the provisions of chapters 2 through 14 of this title or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates chapters 2 through 14 of this title or fails to comply with any of its requirements, shall upon conviction thereof be punished in accordance with the general penalty clause for this code. (1978 Code, § 11-1211)

## CHAPTER 14

### **BOARD OF ZONING APPEALS**

#### **SECTION**

- 14-1401. Board of zoning appeals; composition, terms, removal, and filling vacancies.
- 14-1402. Proceedings of the board of zoning appeals.
- 14-1403. Appeals; hearing and notice.
- 14-1404. Appeal stays proceedings.
- 14-1405. Powers and duties of the board of zoning appeals.
- 14-1406. Decisions of the board of zoning appeals.
- 14-1407. Appeals.
- 14-1408. Duties of the codes enforcement officer, board of zoning appeals, board of mayor and aldermen, and courts on matters of appeal.

**14-1401. Board of zoning appeals; composition, terms, removal, and filling vacancies.** A board of zoning appeals is hereby established, which shall consist of five members serving staggered terms, to be appointed by the board of mayor and aldermen. The term of membership shall be three years, except that the initial individual appointments to the board shall be one member for one year, two members for two years, and two members for three years. Members of the board of zoning appeals may be removed from office by the board of mayor and aldermen for cause upon written charges and after public hearings. Vacancies shall be filled by resolution of the board of mayor and aldermen for the unexpired term of the member affected. The board of mayor and alderman may also appoint the Sparta Municipal Planning Commission to serve as the board of zoning appeals as allowed under Tennessee Code Annotated, § 13-7-205. (1978 Code, § 11-1301, as replaced by Ord. #04-779, Aug. 2004)

**14-1402. Proceedings of the board of zoning appeals.** The board of zoning appeals shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of chapters 2 through 14 of this title. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The board of zoning appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the board. (1978 Code, § 11-1302)

**14-1403. Appeals; hearing and notice.** Appeals to the board of zoning appeals concerning interpretation or administration of chapters 2 through 14 of this title may be taken by any person aggrieved or by any officer or bureau of the governing body of the city affected by any decision of the administrative official. Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided by the rules of the board, by filing with the administrative official and with the board of zoning appeals a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

The board of zoning appeals shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney. (1978 Code, § 11-1303)

**14-1404. Appeal stays proceedings.** An appeal stays all proceedings in furtherance of the action appealed from unless the administrative official from whom the appeal is taken certifies to the board of zoning appeals after the notice of appeal is filed with him, that by reason of facts stated in certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the board of zoning appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown. (1978 Code, § 11-1304)

**14-1405. Powers and duties of the board of zoning appeals.** The board of zoning appeals shall have the following powers and duties:

(1) Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the codes enforcement officer in the enforcement of chapters 2 through 14 of this title.

(2) Special exceptions; conditions governing applications; procedures. To hear and decide only such special exceptions as the board of zoning appeals is specifically authorized to pass on by the terms of this title; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under chapters 2 through 14 of this title, or to deny special exceptions when not in harmony with the purpose of intent of chapters 2 through 14 of this title. A special exception shall not be granted by the board of zoning appeals unless and until:

(a) A written application for a special exception is submitted indicating the section of chapters 2 through 14 of this title under which the special exception is sought and stating the grounds on which it is requested;

(b) Adequate notice of the public hearing shall be published once in a newspaper of general circulation prior to the public hearing and due notice shall be given to the parties interested. Notice for such hearings shall be posted on the property for which special exception is sought and at the city hall prior to the public hearing.

(c) The public hearing shall be held. Any party may appear in person or by agent or attorney;

(d) The board of zoning appeals shall make a finding that it is empowered under the section of chapters 2 through 14 of this title described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the board of zoning appeals may prescribe appropriate conditions and safeguards in conformity with chapters 2 through 14 of this title. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of chapters 2 through 14 of this title. The board of zoning appeals shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

(3) Variances; conditions governing applications; procedures. To authorize upon appeal in specific cases such variance from the terms of chapters 2 through 14 of this title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of chapters 2 through 14 of this title would result in unnecessary hardship. A variance from the terms of chapters 2 through 14 of this title shall not be granted by the board of zoning appeals unless and until:

(a) A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to the other lands, structures, or buildings in the same district;

(2) That literal interpretation of the provisions of chapters 2 through 14 of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of chapters 2 through 14 of this title;

(3) That the special conditions and circumstances do not result from the actions of the applicant;

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by chapters 2 through 14 of this title to other lands, structures, or buildings in the same district, and no permitted use of lands, structures, or



buildings in other districts shall be considered grounds for the issuance of a variance.

(b) Notice of public hearing shall be given as in § 14-1405(2)(b) above;

(c) The public hearing shall be held. Any party may appear in person or by agent or by attorney.

(d) The board of zoning appeals shall make findings that the requirements of § 14-1405(3)(a)(1) have been met by the applicant for a variance;

(e) The board of zoning appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(f) The board of zoning appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of chapters 2 through 14 of this title, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the board of zoning appeals may prescribe appropriate conditions and safeguards in conformity with chapters 2 through 14 of this title. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of chapters 2 through 14 of this title and punishable under the general penalty clause for this code.

Under no circumstances shall the board of zoning appeals grant a variance to allow a use not permissible under the terms of chapters 2 through 14 of this title in the district involved, or any use expressly or by implication prohibited by the terms of chapters 2 through 14 of this title in said district. (1978 Code, § 11-1305, as amended by Ord. #04-782, Oct. 2004)

**14-1406. Decisions of the board of zoning appeals.** In exercising the above mentioned powers, the board of zoning appeals may, so long as such action is in conformity with the terms of chapters 2 through 14 of this title, reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken.

The concurring vote of three members of the board shall be necessary to reverse any order, requirement, decision, or determination of the codes enforcement officer, or to decide in favor of the applicant on any matter upon which it is required to pass under chapters 2 through 14 of this title, or to effect any variation in the application of chapters 2 through 14 of this title. (1978 Code, § 11-1306)

**14-1407. Appeals.** Any person or persons, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the board of zoning appeals may seek review by a court of record of such decision, in the manner provided by the laws of the State of Tennessee. (1978 Code, § 11-1307)

**14-1408. Duties of codes enforcement officer, board of zoning appeals, board of mayor and aldermen, and courts on matters of appeal.**

It is the intent of chapters 2 through 14 of this title that all questions arising in connection with the enforcement or interpretation of chapters 2 through 14 of this title (except as otherwise expressly provided in chapters 2 through 14 of this title) shall be first presented to the codes enforcement officer, and that such questions shall be presented to the board of zoning appeals only on appeal from the codes enforcement officer, and that from the decisions of the board of zoning appeals, recourse shall be to the courts as provided by law.

It is further the intent of chapters 2 through 14 of this title that the duties of the board of mayor and aldermen in connection with chapters 2 through 14 of this title shall not include hearing and passing on disputed questions which may arise in connection with the enforcement or interpretation of chapters 2 through 14 of this title, but that the procedure for determining such questions shall be as hereinbefore stated in this section, and that the duties of the board of mayor and aldermen in connection with chapters 2 through 14 of this title shall be only the duty of considering the passing upon any proposed amendments or repeal of chapters 2 through 14 of this title as provided by law and establishing a schedule of fees and charges. (1978 Code, § 11-1308)

## CHAPTER 15

### SUBDIVISIONS

#### SECTION

14-1501. Compliance with regulations required.

14-1502. Flood precautions.

**14-1501. Compliance with regulations required.** The city shall not extend city services and facilities such as water, power, sewer lines, etc., into any subdivided land areas which, if subdivided after November 4, 1960, has not been subdivided or transformed in accordance with the subdivision regulations of the planning commission and approved by said commission. (1978 Code, § 11-1401)

**14-1502. Flood precautions.** The Sparta Regional Planning Commission shall review subdivision proposals and other proposed new developments to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage;
- (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards. (1978 Code, § 11-1402)

## CHAPTER 16

### HISTORICAL ZONING COMMISSION

#### SECTION

14-1601. Creation and appointment.

14-1602. Procedure.

14-1603. Powers and duties.

14-1604. Jurisdiction.

**14-1601. Creation and appointment.** In accordance with Tennessee Code Annotated, § 13-7-403, a historical zoning commission is hereby established. The board of mayor and aldermen shall create a five (5) member historical zoning commission which shall consist of a representative of a local patriotic or historical organization; an architect, if available, and a member of the planning commission, at the time of his appointment. The remaining members shall be appointed from the community in general. Historical commission members shall be appointed by the Mayor of the City of Sparta and shall be confirmed by the board of aldermen. Appointments to membership on the historical zoning commission shall be arranged so that the term of one member shall expire each year but not more than two (2) members shall expire each year and his successor shall be appointed in like manner in terms of five (5) years. All members shall serve without compensation. (1978 Code, § 11-1501)

**14-1602. Procedure.** Meetings of the historical zoning commission shall be held at the call of the chairman or by the majority of the membership. All meetings of the commission shall be open to the public. The commission shall keep minutes of its procedures showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. (1978 Code, § 11-1502)

**14-1603. Powers and duties.** The historical zoning commission shall have the following powers which shall be limited to the H-1 historical district.

(1) Provide recommendations to the board of mayor and aldermen regarding the establishment and amendment of historic zoning district boundaries.

(2) The historic zoning commission shall develop a set of review guidelines and adopt same after a public hearing, reasonable notice thereof having been given.

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

(4) Historical zoning commission shall within thirty (30) days following availability of sufficient data, direct the granting of a building permit with or

without conditions or direct the refusal of a building permit providing, the grounds for refusal are stated in writing.

(5) Upon review of the application for a building permit, the historical zoning commission shall give prime consideration to:

- (a) Historic and/or architectural value of present structure.
- (b) Relationship of exterior architectural features of such structure 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 aesthetic which is deemed pertinent.

(6) In no case shall the commission grant variances from the terms of this chapter. (1978 Code, § 11-1503)

**14-1604. Jurisdiction.** The historic zoning commission shall have exclusive jurisdiction relating to historic matters. Anyone who may be aggrieved by any final order or judgement of the commission may have said order of judgement reviewed by the courts by procedures as provided for in Tennessee Code Annotated. (1978 Code, § 11-1504)

## CHAPTER 17

### BILLBOARDS

#### SECTION

- 14-1701. Statement of purpose.
- 14-1702. Definitions.
- 14-1703. New billboards.
- 14-1704. Standards.
- 14-1705. Permits.
- 14-1706. Nonconforming billboards.
- 14-1707. Illegal billboards.
- 14-1708. Enforcement.

**14-1701. Statement of purpose.** Billboards constitute a separate and distinct use of the land upon which they are erected. They are constructed adjacent to public roads to advertise products or services that are offered elsewhere. As such, they depend upon the public roads to create the market for their advertising.

It is the purpose of this chapter to establish reasonable and impartial regulation of billboards in the City of Sparta under the city's zoning and police powers to accomplish the following goals:

(1) To protect and promote public safety, health, convenience, and general welfare by decreasing the risk of traffic hazards which distract, confuse, or impair the visibility of motorists and pedestrians and by increasing the effectiveness of signs needed to direct the public;

(2) To protect the public investment in streets and highways;

(3) To enhance public prosperity and the general welfare by minimizing adverse effects upon the natural scenic beauty and by providing an attractive visual environment in the City of Sparta so that it is a more desirable place to live, visit, and conduct business; and

(4) To protect property values by insuring compatibility with surrounding land usage and by insuring light, air, and open space.

The regulations contained in this chapter directly advance these significant governmental interests. (1978 Code, § 11-1601)

**14-1702. Definitions.** (1) "Administrator." City administrator or person designated by the city administrator.

(2) "Billboard." Any sign which displays commercial or noncommercial advertising or on which any other matter may be displayed, depicting goods, services, or other things not sold or available upon the parcel of property on which the signs are located. These signs are commonly known as outdoor advertising, billboards, or poster panels and are classified as off-premise signs.

The following types of signs are not intended to be regulated by the provisions of this chapter:

- (a) "Directional signs" not exceeding 3 square feet in area providing such sign only directs motorists to the location of off-street businesses.
- (b) "Political campaign signs" provided such signs are not more than 4 square feet in area and installed with the express consent of the occupant of the premises or the owner of vacant property.
- (c) "Public signs" such as governmental informational, traffic, directional, or regulatory signs or notices of the federal, state, county or city government or their public agencies.
- (d) "Real estate signs" with copy on either one or both sides provided that only one sign may be erected for each street frontage of the parcel of property or unit offered for sale, lease, or rent and such sign does not exceed 4 square feet in area.
- (e) "Shopping center signs" which display center identification or directories and are located upon the business site and provided such signs display only the name of the center and its occupants with no other signs attached to the structure.
- (f) "Temporary signs" announcing any public, charitable, educational or religious event or function provided such signs do not exceed 24 square feet in area and are erected not more than 14 days prior to the event and removed not more than 3 days after its termination.
- (3) "Erect." To assemble, construct, build, raise, place, install, affix, attach, create, paint, draw, or in any other way bring into being or establish.
- (4) "Illegal sign." Any sign erected or maintained in violation of a preceding ordinance or erected, altered, removed, or replaced in violation of this chapter.
- (5) "Illuminated." Lighted by any direct or indirect, external or internal source of light or the reflection of any such light.
- (6) "Nonconforming billboard." Any billboard which was lawfully erected prior to the date of passage of this ordinance. Off-premise billboards which were illegal under any prior ordinance remain illegal under this ordinance and are not nonconforming billboards.
- (7) "Person." Any natural person, firm, partnership, corporation, company, association, trust or any other group or combination of individuals operating as a unit and including any trustee, receiver, assignee, or other similar representative thereof.
- (8) "Sign." Any object, device, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city or any fraternal

religious or civic organization; works of art which in no way identify a product; or scoreboards located on athletic fields.

(9) "Total sign area or surface display area." The sign area is measured by finding the area of the minimum imaginary rectangle or square of the vertical and horizontal lines which fully encloses all extremities of the billboard, including the outer extremities of all letters, characters and background area. Structural support elements not a part of the billboard and any appurtenances required by the building code are not included in the computation of this area.

All faces and any air spaces separating the sign faces are included in the computation of total sign area. For multiple-faced billboards, the maximum number of advertising surfaces visible from any location will be counted in determining total sign area. (1978 Code, § 11-1602)

**14-1703. New billboards.** No billboard shall be erected or maintained unless it is located in a Manufacturing/Industrial (M-1) or Commercial D (C-D) zoning district and is in compliance with the regulations specified in this chapter. (1978 Code, § 11-1603)

**14-1704. Standards.** Any billboard erected after the effective date of this ordinance shall comply with the standards set forth in this section. Any previously erected billboard which does not comply with these standards is hereby declared to be a nonconforming billboard and must comply with these standards only as indicated in § 14-1706.

(1) **Location and setback.** (a) No billboard shall be located in such a position that it obstructs or obscures the view of vehicular or pedestrian traffic in such a manner as to endanger the safe movement thereof.

(b) Each billboard shall be set back at least 15 feet from any road or street right-of-way line, measured from the closest part of the billboard.

(c) No billboard shall be permitted whenever property zoned residential would be between the sign and the roadway toward which it is oriented.

(d) No part or foundation or support of any billboard shall be placed on, in, or over any private property without the written consent of the property owner.

(e) No part or foundation or support of any billboard shall be placed on, in, or over any public property, including public right-of-ways or any utility or drainage easement, or upon telephone or utility poles.

(f) No billboard shall be erected or maintained upon or above the roof of any building structure.

(g) Except for billboards erected along State Highway 111, no billboard shall be erected within 1000 feet of the nearest property line of any of the following: historic site, school, church, hospital, retirement or



nursing home, cemetery, governmental building, public park, playground, recreation area, convention center or any area in which billboards are prohibited under § 14-1703.

Billboards erected along State Highway 111 shall not be erected within 500 feet of the nearest property line of any of the following: historic site, school, church, hospital, retirement or nursing home, cemetery, governmental building, public park, playground, recreation area, convention center or any area in which billboards are prohibited under § 14-1703.

(h) Intersections. For billboards located along State Highway 111, no structure shall be erected closer than 500 feet from the centerline of an intersecting street or highway.

(2) Spacing. No two billboards located upon, or oriented towards traffic traveling upon the same side of a public street or road with four or more lanes shall be spaced less than 1000 feet apart.

The spacing shall be no less than 1500 feet apart on the same side of public streets or roads with less than four lanes.

This distance shall be measured along a straight line between the two nearest points of the billboards. The minimum spacing requirement shall not apply to two panels viewed from different directions which share a common support structure.

Nor shall any billboard be located within a 500 foot radius of any other billboard even though the two billboards are on different streets.

(3) Size and shape. (a) For billboards located along State Highway 111, no billboard shall exceed 775 square feet in total surface display area and no billboard shall exceed 36 feet in length.

(b) For billboards located along State Highway 111, billboards may be multiple-faced but the total surface display area shall not exceed a total area of 775 square feet and any multiple-faced billboard structure shall have advertising surfaces of equal size and shape.

(c) For billboards located along all other streets and highways, no billboard shall exceed 300 square feet in total surface display area and no billboard shall exceed 30 feet in length. Billboard structures may be single faced only.

(d) Rectangular extensions which result in the addition to the total square feet of advertising surface are not allowed to be added to existing billboards.

(e) No billboard shall be permitted which, because of its size, shape, or location, may obscure or obstruct the view of vehicular or pedestrian traffic or be confused with any authorized traffic control sign, signal, or device.

(4) Height. (a) There are no maximum height restrictions for billboards.

(5) Lighting. (a) No billboard shall be so illuminated that it interferes with or obscures an official traffic sign, device or signal.

(b) No billboard shall be so illuminated that the light intensity or brightness adversely affects the safe vision of operators of vehicles moving on public or private roads, highways or parking areas, or of pedestrians.

(c) Flashing billboards are prohibited. In addition, no billboard shall contain or be illuminated by revolving, rotating, animated or any other form of moving light or lights.

(d) Any light from any illuminated billboard shall be shaded, shielded, or directed so that the light intensity or brightness shall not adversely affect the surrounding or facing premises. Light shall not shine directly on or into residential structures.

(6) General maintenance. (a) Every billboard and its supports, braces, guys, anchors, and electrical equipment shall be maintained in safe condition at all times. All billboards shall be kept free from defective or missing parts or peeling paint and shall be able to withstand wind.

The administrator or his representative shall possess the authority to order the painting, repair, or alteration of a billboard which constitutes a hazard to the health, safety or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment. Notice to the owner shall be by personal service or registered mail, return receipt requested or by posting in a conspicuous place on the premises on which the billboard is located and advertising in a newspaper once a week for three weeks if the owner cannot be located. Notice shall state that if the owner does not correct the problem identified in the order in the manner specified within 30 days, the City of Sparta will, at the owner's expense, either perform the necessary maintenance or repairs or remove the billboard.

If the owner fails to comply with the order to repair, improve, or remove the structure as specified in the preceding section hereof, the administrator may cause such structure to be repaired, improved, removed, or demolished.

The amount of the cost of such repairs, improvements, alterations, removal, or demolition by the City of Sparta shall, upon the filing of the notice with the office of the register of deeds of White County, be a lien on the property in favor of the taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the City of Sparta as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

The administrator may, without notice, repair or remove any billboard that presents an immediate threat to the health, safety and welfare of the community.

(b) The immediate premises around a billboard shall be kept free from debris. However, no person may damage, trim, destroy, or remove any trees, shrubs or other vegetation located within the right-of-way of any public street or road for the purpose of increasing or enhancing the visibility of any billboard. Nor shall such work be performed on property that is not under the ownership or control of the person performing or responsible for such work, unless done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

(7) Other codes. Any billboard permitted under this chapter must comply with any applicable requirements of the building code, electric safety code, and other applicable federal, state, or local codes. (1978 Code, § 11-1604)

**14-1705. Permits.** (1) General. After the effective date of this ordinance, no billboard shall be erected, significantly altered, replaced or relocated unless a billboard permit has been obtained from the administrator in accordance with this section.

(2) Application requirements. No billboard permit shall be issued unless all of the requirements contained in this chapter have been complied with and the following steps have been completed.

(a) An application provided by the City of Sparta must be filed with the administrator. This application shall contain the following information:

(i) The billboard owner's name, address and telephone number;

(ii) Property owner's name, address and telephone number and (if different) the name of the person in possession of the premises where the billboard is located or is to be located;

(iii) The name, address and telephone number of the person who will be performing the work requested;

(iv) Location and zoning designation of the parcel on which the billboard is and/or will be located;

(v) The cost of construction and installation of the billboard and the cost of any alteration;

(vi) Any other information the administrator shall require to ensure compliance with this and all other applicable ordinances of the City of Sparta.

(b) The following items must accompany this application:

(i) A signed statement by the applicant that the proposed billboard will not violate the standards of § 14-1704;

(ii) A surveyed site plan legibly drawn to scale and sufficiently detailed as to acquaint the administrator with the location and dimensions of the billboard; the location, proximity and size of all surrounding buildings and structures; the location, proximity and size of all existing or proposed billboards within the minimum spacing distance of the proposed billboard; all roadways, sidewalks and public rights of way adjacent to the site;

(iii) A photograph of the proposed location;

(iv) Plans and specifications and details (as applicable) such as the construction materials to be used, manner of illumination, components, method of support, condition and age of the billboard;

(v) Written consent of the landowner.

(c) No permit shall be issued unless the applicant has paid the requisite fees established by this chapter. The permit fee shall be \$100. All fees received pursuant to this section shall be paid to the city's treasury and placed in a fund for the administration of this chapter.

(3) Issuance of permit. (a) Each site shall be inspected as soon as possible to verify the information in a completed application and, whenever possible, a decision on the permit shall be made within 30 working days of the receipt of all required documents and fees in the administrator's office.

(b) Each billboard permit shall become null and void if the activity approved in the permit is not completed within six months from the date the permit is issued.

(c) Once the authorized work is completed satisfactorily and a permit issued for the billboard, the permittee shall affix a tag to the structure in such a place and position that it is visible at eye level for inspection. The tag shall contain the following information: permit identification number, date installed, name and phone number of the billboard owner.

(d) The administrator shall maintain accurate records of all billboard permits issued by the City of Sparta, which records may serve as the basis for a comprehensive inventory.

(4) Renewal and subsequent inspection. Each billboard permit must be renewed every year. The billboard owner shall submit to the administrator any changes in the information contained in the original permit application and an annual inspection fee of \$50. If the fee is not paid within 30 days of notice, then the billboard shall be considered illegal and subject to removal by the City of Sparta.

In July of each year, the codes enforcement officer shall make an annual inspection of existing billboards to ensure compliance with the provisions of this chapter and all other applicable codes. The codes enforcement officer shall maintain records of all inspected billboards.

(5) **Violation.** The issuance of a billboard permit shall in no instance be construed as waiving any portions of this chapter. If any person commences any work on a billboard before obtaining the necessary permit, or if a permit is issued despite the violation of any provision of this chapter, or if the location or specifications of the billboard vary from the approved design or location, the person shall be subject to the penalty prescribed in § 14-1708(3) of this chapter and the billboard shall be removed as an illegal billboard pursuant to § 14-1707.

In addition to the sanctions in those sections, the administrator shall revoke a billboard permit for failure of the holder to conform with any of the provisions of this chapter. All rights and privileges acquired under the provisions of this chapter, or any amendment thereto, are mere licenses revocable at any time. (1978 Code, § 11-1605)

**14-1706. Nonconforming billboards.** Any billboard legally in existence prior to the effective date of this ordinance is declared to be a nonconforming use and as such, is subject to the provisions of the Tennessee Code Annotated, § 13-7-208(d)(1989) pertaining to nonconforming uses. (Note: See *Creative Displays, Inc. v. City of Pigeon Forge*, 576 S.W.2d 356 [1978] in which the Court of Appeals of Tennessee determined that the nonconforming use statutes are applicable to billboards). (1978 Code, § 11-1606)

**14-1707. Illegal billboards.** Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any billboard which was erected in violation of any prior ordinance of the City of Sparta. Moreover, billboards erected or altered in violation of any prior ordinance may be removed as provided in this section.

Any violation of the provisions of this chapter by any person is declared to be a public nuisance. Upon ascertaining a violation the provisions of this chapter, the administrator shall cause to be served upon both the offender, or his agent, and upon the owner, or his agent, or the occupant(s) of the premises, a written notice to abate which shall:

- (1) Describe the conditions constituting a nuisance under this chapter;
- (2) Revoke the permit; and
- (3) Require removal within 30 days of the notice. After this time, the City of Sparta, its officials, or its employees shall have the authority to enter upon the private property upon which the billboard is located for the purpose of removing the billboard without civil or criminal liability and/or institute appropriate action to have the billboard removed. (1978 Code, § 11-1607)

**14-1708. Enforcement.** (1) **Administration.** The city administrator, or person otherwise designated by the city administrator, shall have primary responsibility for the administration and enforcement of this chapter and is hereby given full authority to enforce any and all provisions of this chapter. In

addition to the duties specified in other portions of this chapter, the administrator shall have the power to:

- (a) Receive billboard applications;
- (b) Make inspections of all billboards and premises upon which billboards are situated to confirm information contained in an application or any other information relating to a permit application;
- (c) Maintain records, inventories and maps concerning billboards;
- (d) Register nonconforming billboards;
- (e) Make such other inspections as are necessary to ensure compliance with the provisions of this chapter, any other applicable regulations, and the terms of any billboard permit;
- (f) Issue the requisite notice and take the appropriate, authorized steps to enforce this chapter;
- (g) Interpret the general intent or meaning of any provision of this chapter.

(2) Complaints. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint with the administrator. Such complaint shall state fully the causes and basis thereof. The administrator shall officially record such complaint, immediately initiate investigations, and take such actions thereon as are required by the provisions of this chapter.

(3) Penalties. The administrator shall revoke the permit of any person for failure to conform to any provisions of this chapter. Any person failing to comply with its requirements shall also be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to the general penalty clause of this code (Ordinance #500, Section 5). Each and every day, or portion thereof, on which a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Nothing herein contained shall prevent the City of Sparta or any affected adjacent or neighboring property owner from taking such other lawful action as is necessary to prevent or remedy any violation.

Prior to invoking the provisions of this section, the administrator shall give notice either by certified mail, return receipt requested, or by personal service to the owner of the billboard. Such notice shall specify the basis for the alleged violation. The owner shall be responsible for any cost for the removal of unlawful billboards.

(4) Appeal. Any person aggrieved by any action of the administrator or his designated representative may, within the 10 days after receiving notice of such action taken, appeal the action in writing to the board of zoning appeals, in which case such matter shall be scheduled for hearing by said board of zoning appeals at the next regular meeting or special meeting called for such purpose, no later than 20 days after the filing of the appeal. Any action by either the administrator or the billboard owner, which has been appealed, shall be

suspended pending final decision of the said board of zoning appeals of the appeal. The appeal shall be heard at a public hearing after notice is issued to the public. Following the hearing of any such appeal, the board may affirm, reverse, or modify the action which would have been authorized in the first instance. The action of the board on such appeal shall be final and conclusive. (1978 Code, § 11-1608)

## CHAPTER 18

### SPECIFIC REGULATIONS FOR CHILD DAY CARE FACILITIES

#### SECTION

14-1801. General information.

14-1802. Home occupation/accessory use in a residence.

14-1803. An accessory use at church, school, industry or commercial business.

14-1804. Principal use of a structure.

14-1805. Summary chart.

**14-1801. General information.** (1) All state-licensed child day care operations will be classified as one of the following: As a home occupation/accessory use in a residence, as an accessory use at church or industry or other commercial business, or as the principal use of a structure.

(2) All existing licensed day cares. Those in operation at time of adoption of these regulations will be allowed to continue operation, providing:

(a) Owner/operator provide off-street parking and loading area(s) in order to reduce traffic congestion and promote safety that can occur during drop-off and pick-up times.

(b) Owner/operator must obtain annual city business license.

(c) Owner/operator must register facility and use with E911 director and all emergency services, and file floor plan with fire department and ambulance services.

(d) Annual inspection by city building inspector.

(e) Any facility ceasing to operate over 90 days must meet all new regulations.

(3) Unlicensed in-home day-care. Certain small operations (for example, up to 4 non-resident children) do not require state licensing and therefore would not have to meet the requirements of this section, but are strongly advised to register with the city and emergency services for safety purposes and provide off-street parking and loading areas. (As added by Ord. #99-724, Nov. 1999)

**14-1802. Home occupation/accessory use in a residence.** A "Family Day Care" (7 children) and "Group Day Care" (12-15 children), as described and licensed by State of Tennessee Department of Human Services, that is located within the owner/operator's residence and operated as an accessory use/home occupation. The principal use of the structure is the home of the owner/operator of the day care.

(1) Where permitted. (a) All R Districts -- Use permitted upon appeal, subject to review and approval by board of zoning appeals.

(b) All C or M Districts -- Permitted, subject to site plan parking plan review by planning commission.



(2) General requirements. (a) Minimum lot size:

- (i) R Districts -- Family Day Care minimum 10,000 sq. ft.
- (ii) R Districts -- Group Day Care minimum 20,000 sq. ft.
- (iii) C & M Districts -- Family or Group Day Care minimum 10,000 sq. ft.

(b) In R-Districts, the facility must operate in daytime hours only, with no keeping of children during evening and overnights, such as 2nd and 3rd shift time periods.

(c) Applicant must specify number of children to be kept and type of licensing being sought, and any change in status of licensing before or after city approval must be reported to city building inspector.

(d) Applicant submits signed statements from adjoining property owners and residents that they have been notified of proposed use.

(e) Fenced play area(s) cannot be located in front yard. When in a side yard or rear yard, not within 20 ft. of any street right-of-way. In R districts, fenced play area must be at least 20 ft. from an adjoining property line if the adjoining house is less than 15 ft. from common property line.

(f) In order to reduce traffic congestion that can occur during drop-off and pick-up times and enhance safety, all parking and loading area must be off-street and out of traffic. Parking spaces must be paved and equal to half the maximum capacity of day care facilities + 2 spaces for household use + 1 space per employee.

(g) In general the day care operation should be located within the principal dwelling, but may under special circumstances be permitted in an accessory building, such as a remodeled garage.

(h) One sign permitted: Max. 1 sq. ft. size in R Districts; max. 12 sq. ft. sign in C or M Districts.

(i) Owner/operator must obtain annual city business license.

(j) Owner/operator must register information on this facility with E911 director and all emergency services, and file floor plan with fire department and ambulance services.

(k) Annual inspection by city building inspector.

(3) Site plan-parking plan requirement and review by PC or BZA. Prior to applicable board meeting (PC or BZA), the owner/operator must submit to the building inspector a site plan-parking plan drawn to scale showing:

(a) Location of dwellings and various features of property, including size and dimension of property, tax map ID info.

(b) Distances to any adjoining dwellings and adjoining property owners' names.

(c) Names of adjoining property owners.

(d) Location of proposed fenced play area(s).

- (e) Location of off-street parking and loading areas, entrance(s) and exit(s) from streets. (As added by Ord. #99-724, Nov. 1999)

**14-1803. An accessory use at church, school, industry or commercial business.** A group day care center or child care center, as described and licensed by State of Tennessee Department of Human Services, and operated within a church building, school, within an industry or other commercial business, is considered to an "accessory use" to the main use of the premises.

- (1) Where permitted. (a) Permitted as an "accessory use" to a church in all districts, subject to review and approval of site plan-parking plan by planning commission.

- (b) Accessory use to an industry in M-1 District, subject to review and approval of site plan-parking plan by planning commission.

- (c) Accessory use to a commercial business in any C District, subject to review and approval of site plan-parking plan by planning commission.

- (2) General requirements. (a) No minimum lot size.

- (b) Applicant must specify number of children to be kept and type of licensing being sought, and any change in status of licensing before or after city approval must be reported to city building inspector.

- (c) Applicant submits signed statements from adjoining property owners and residents that they have been notified of proposed use.

- (d) Fenced play area(s) cannot be located within 20 ft. of any street right-of-way.

- (e) The facility generally will be located within the principal building, however may instead be located within a secondary building on the same property.

- (f) In order to reduce traffic congestion that can occur during drop-off and pick-up times and enhance safety, all parking and loading areas must be off-street and out of traffic. Parking spaces must be paved and equal to half the maximum capacity of day care facility + 1 space per employee + 1 space per van or bus used by facility, if applicable. No backing of vehicles into street.

- (g) Owner/operator must register information on this facility with E911 director and all emergency services, and file floor plan with fire department and ambulance services.

- (h) Annual inspection by city building inspector.

(3) Site plan-parking plan requirement and review by PC or BZA. Prior to PC meeting, the owner/operator must submit to the building inspector a site plan-parking plan drawn to scale showing:

- (a) Location of structure(s) and various features of property, including size and dimensions of property, tax map ID info.

- (b) Distances to any adjoining dwellings and adjoining property owners' names.
- (c) Location of proposed fenced play area(s).
- (d) Location of off-street parking and loading areas, entrance(s) and exit(s) from streets. (As added by Ord. #99-724, Nov. 1999)

**14-1804. Principal use of a structure.** Group day care (up to 15 children) or child care center (over 15 children and unlimited size), as described and licensed by Tennessee Department of Human Services, that operates as the principal use of the structure, without the owner/operator residing on the premises. The building may have been built specifically for a day care center, or be housed in a building that formerly was a home or another business. (Includes Head Start)

- (1) Where permitted. (a) All R Districts -- Use permitted upon appeal, subject to review and approval by board of zoning appeals.
  - (b) All C and M Districts -- Permitted, subject to site plan parking plan review and approval by planning commission.
  - (c) General location. Whether this type of facility would be permitted depends on the size of the facility, its location and the type of street on which the building is located. The larger facilities are a traffic generator, predominantly mornings and late afternoons, and generally not suitable for a typical single-family neighborhood. It is preferable that the use be located on an arterial or collector street or highway and/or in a transitional or mixed-use neighborhood, rather than in a predominantly single-family housing subdivision or neighborhood. Due to specific requirements for off-street parking and loading areas, it is also essential that there be sufficient street access (driveway cuts) so that cars are not backing into traffic nor having to park along side of roadway.
- (2) General requirements. (a) Minimum lot size:
  - (i) R Districts -- Group Day Care minimum 20,000 sq. ft.
  - (ii) R Districts -- Child Care Center minimum 1 acre.
  - (iii) C & M Districts -- Either type minimum 20,000 sq. ft.
  - (b) Applicant must specify number of children to be kept and type of licensing being sought, and any change in status of licensing before or after city approval must be reported to city building inspector.
  - (c) In R-Districts, the facility must operate in daytime hours only, with no keeping of children during evening and overnights, such as 2nd and 3rd shift time periods.
  - (d) Applicant submits signed statements from adjoining property owners and residents that they have been notified of proposed use.
  - (e) Fenced play area(s) cannot be located in front yard. When in a side yard or rear yard, not within 20 ft. of any street right-of-way. In R districts, fenced play area must be at least 20 ft. from an adjoining

property line if the adjoining house is less than 15 ft. from common property line.

(f) In order to reduce traffic congestion that can occur during drop-off and pick-up times and enhance safety, all parking and loading areas must be off-street and out of traffic. Parking spaces must be paved and equal to half maximum capacity of day care facility + 1 space per employee + 1 per van or bus operated by the day care facility. No backing into streets.

(g) Sign: In R Districts maximum 1 sq. ft. in size; in C or M Districts maximum 20 sq. ft.

(h) Owner/operator must obtain annual city business license.

(i) Owner/operator must register information on this facility with E911 director and all emergency services, and file floor plan with fire department and ambulance services.

(j) Annual inspection by city building inspector.

(3) Site plan-parking plan requirement and review. Prior to applicable board meeting (planning commission or board of zoning appeals), the owner/operator must submit to the building inspector a site plan-parking plan drawn to scale showing:

(a) Location of dwelling and various features of property, including size and dimensions of property, tax map ID info.

(b) Distances to any adjoining dwellings and names of adjoining property owners.

(c) Location of proposed fenced play area(s).

(d) Location of off-street parking and loading areas, entrance(s) and exit(s) from road. (As added by Ord. #99-724, Nov. 1999)

**CERTAIN PARTS OF SPARTA ZONING REGULATIONS  
AND PROPOSAL FOR AMENDMENTS**

	<b>All R-Districts</b>	<b>All C-Districts</b>	<b>M-District</b>
<b>Current Zoning Regulations:</b>			
Schools (Public or Private Elem. or HS)	Permitted Use No Review	Not Permitted	Not Permitted
Churches and Sunday Schools	Permitted Use No Review	Not Permitted	Not Permitted
In-Home Small Day Care	Permitted Use No Review	Not Permitted	Not Permitted
Child Care Centers	Not Permitted	Permitted in C-D No Review Not Permitted in C-A, C-B, C-C	Not Permitted
<b>Proposed Changes:</b>			
In-Home Occupation Family Day Care (up to 7 children)	Use Upon Appeal by BZA	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Time of Operation	Daytime only		
In-Home Occupation Group Day Care (up to 12-15 children)	Use Upon Appeal by BZA	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	20,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Time of Operation	Daytime only		
Accessory Use at a Church, School, Business or Industry	Site Plan Review by PC	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	N/A	N/A	N/A
Principal Use Group Day Care (up to 12-15 children)	Use Upon Appeal by BZA	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.
Time of Operation	Daytime only		
Child Care Center (over 15 children)	Use Upon Appeal by BZA	Site Plan Review by PC	Site Plan Review by PC
Minimum Lot Size	1 acre	20,000 sq. ft.	20,000 sq. ft.
Time of Operation	Daytime only		

(As added by Ord. #99-724, Nov. 1999)

## CHAPTER 19

### **MINIMUM DESIGN STANDARDS FOR TELECOMMUNICATIONS TOWERS AND STATIONS**

#### **SECTION**

14-1901. Intent.

14-1902. Standards for telephone, telegraph, and communication transmitter stations and towers.

14-1903. Application requirements.

**14-1901. Intent.** It is the intent of this section to avoid potential damage to property caused by towers and telecommunication facilities by ensuring such structures are soundly and carefully designed, constructed, modified, and maintained, while ensuring such towers are compatible with the surrounding land uses. The purpose of this section is also to promote and encourage shared use/co-location of such towers and antenna support structures as a primary option, rather than the construction of single-use towers. (as added by Ord. #02-756, Nov. 2002)

**14-1902. Standards for telephone, telegraph, and communication transmitter stations and towers.** All transmitter stations, including towers and operating equipment located within the City of Sparta shall adhere to the following standards:

(1) **Design requirements.** All towers with a height of one hundred fifty (150) feet (from base to top) or more shall be constructed in accordance with Electronics Industries Association ("EIA") standard 222E-1996 utilizing a wind rating of eighty miles per hour (80 MPH) plus ice loading for Sparta, Tennessee. Each application for a building permit shall be accompanied by a certification of a professional licensed engineer in the State of Tennessee who is competent and qualified to do telecommunications design.

(2) **Setback requirement.** (a) **Residential districts.** All tower in any residential district shall be set back from all property lines a distance that is equal to:

(i) For a guyed tower, one hundred percent (100%) of its maximum height, or

(ii) For a self supporting tower, one hundred twenty-five percent (125%) of its maximum height, and

(iii) Until such time as the tower is removed from the site, the entire setback area is to be held under lease, ensuring public safety by eliminating the possibility of further development in the setback area.

(b) **Commercial and industrial districts.** All towers in any commercial or industrial district shall be set back from all property lines a distance that is equal to:

- (i) For a guyed tower, forty percent (40%) of its maximum height, or
  - (ii) For a self supporting tower, fifty percent (50%) of its maximum height, and
  - (iii) Until such time as the tower is removed from the site, the entire setback area is to be held under lease, ensuring public safety by eliminating the possibility of further development in the setback area.
- (3) Fencing. The immediate tower site in either fee simple ownership or leasehold procurement containing such tower and equipment shall be enclosed with a fence no shorter than six (6) feet in height. Access gates will be locked at all times when the site is not occupied.
- (4) Screening. Where the tower abuts or is contiguous to any residential zone, there shall be provided a continuous, solid screening, and it shall be of such plant materials as will provide a reasonable year-round evergreen screening. Screening herein shall not be less than four (4) feet in height at the time of planting, and shall be permanently maintained by the leaseholder or owner of the subject property. (See definition of buffer strip in the definition section.)
- (5) Tower illumination. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is three-hundred percent (300%) of the height of the tower and when required by federal law, dual mode lighting shall be requested from the FAA.
- (6) Parking and access. The access drive to the site shall be passable, being adequate for use by automobile and small truck. There shall be two (2) improved parking spaces on-site.
- (7) Location and co-location. Every effort shall be made to co-locate on existing towers or facilities. If the existing facilities are unsuitable (either technologically or topographically), or no facilities exist, the tower shall be made available to others for co-location. The tower shall be designed to allow, at a minimum, at least two (2) additional co-locators.
- (8) FAA and FCC standards. All towers must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the state or federal governments with the authority to regulate towers and antennas.
  - (a) If such standards and/or regulations are changed, the owners of the towers and/or antennas governed by this chapter shall bring such towers and/or antennas into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a different compliance schedule is mandated by the controlling state or federal agency.
  - (b) Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (9) Structural integrity and maintenance of towers. The owner of the towers and/or antennas governed by this chapter shall ensure the structural integrity of the tower and/or antenna is maintained in compliance with standards

contained in applicable state and local building codes and the applicable standards for towers that are the most recently published and amended by the Electronic Industries Association.

(a) If, upon inspection, the City of Sparta concludes that a tower and/or antenna fails to comply with such codes and standards and constitutes a danger to persons and/or property, then upon notice being provided to the owner of the tower and/or antenna, the owner shall have thirty (30) days to bring such tower and/or antenna into compliance with such standards.

(b) Failure to bring towers and/or antennas into compliance with such revised standards and regulations within thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owners expense. (as added by Ord. #02-756, Nov. 2002)

**14-1903. Application requirements.** An application to develop a transmission and communications tower shall include at a minimum the following:

(1) A "Determination of No Hazard" from the Federal Aviation Administration, as well as all required Federal Communications Commission Permit information.

(2) Documentation that the entire setback area (as defined in Article III, Section 13, A3), is under lease.

(3) The names, addresses, and telephone numbers of all owners of other communications/transmission towers or support structures within a one-half mile ( $\frac{1}{2}$ ) radius of the proposed new tower site, including city-owned property.

(4) An affidavit attesting to the fact that the project applicant made diligent, but unsuccessful, efforts to install or co-locate the project applicant's telecommunications facilities on towers or useable antenna support structures owned by the city or other persons within a one-half ( $\frac{1}{2}$ ) mile radius of the proposed tower site.

(5) Written technical evidence from an engineer(s) that the proposed tower or telecommunications facility cannot be installed or co-located on any other tower or antenna support structure within a one-half ( $\frac{1}{2}$ ) mile radius of the proposed tower site. Evidence must show one (1) or more of the following reasons:

(a) The equipment would exceed the structural capacity of the existing approved tower and facilities.

(b) The planned equipment would cause frequency interference with other existing or planned equipment, which cannot be reasonably prevented.

(c) Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively.

(d) Other reasons make it impractical to place the proposed equipment by the applicant on existing towers or facilities. (as added by Ord. #02-756, Nov. 2002)



## CHAPTER 20

### MINIMUM LANDSCAPING REQUIREMENTS

#### SECTION

- 14-2001. Purpose and intent.
- 14-2002. Applicability.
- 14-2003. Plan required.
- 14-2004. Maintenance and replacement.
- 14-2005. Landscaping requirements.
- 14-2006. Screening and buffer yard requirements.
- 14-2007. Illustrations.

**14-2001. Purpose and intent.** The purpose of this section is to provide minimum standards for the provision of landscaping, screening and buffer yards within the City of Sparta. (as added by Ord. #03-773, Dec. 2003)

**14-2002. Applicability.** The standards of this section shall apply as follows:

(1) New development. All new development, excluding individual single family shall comply with the standards of this section.

(2) Expansion of existing development. For expansions of existing development (development in existence prior to the adoption of this zoning code) the following shall apply:

(a) Cumulative expansions of existing development not exceeding twenty-five (25) percent of the existing gross floor area and not requiring or involving additional parking areas shall be exempt from the provisions of this section.

(b) Cumulative expansions of existing development exceeding twenty-five (25) percent of the existing gross floor area shall be required to provide landscaping at a percentage equal to or exceeding the percentage of the expansion.

(c) Any parking lot constructed as a result of the expansion or change in use of an existing development shall comply with the provisions of § 14-2005(2) of this zoning code.

(3) Change of use. Any change of use that results in the property becoming a higher impact use shall comply with the screening and buffer yard requirements of § 14-2006 of this zoning code. (as added by Ord. #03-773, Dec. 2003)

**14-2003. Plan required.** For all uses or structures requiring landscaping and/or screening and buffer yards, a plan or plans shall be submitted to the codes official with the required site plan. In reviewing the landscape and/or screening and buffer yard plans, the codes official shall seek the guidance of the Sparta Tree

Board and/or this landscape chapter. Plans shall be drawn to scale with a north arrow and any interpretive legends and shall include the following:

- (1) Location and size of landscape yards, landscape strips within parking areas, screening areas and buffer yards.
- (2) Plant schedule containing the following:
  - (a) Quantity of each plant material.
  - (b) Common and botanical names of plant material.
  - (c) Size and spacing of all proposed landscape material at time of planting.
- (3) Planting standards to ensure conformance with industry standards.
- (4) Existing landscaping materials on site that were previously required by the zoning code.
- (5) Existing plant materials and areas to be left undisturbed.
- (6) Methods and details for protecting existing plants.
- (7) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, fountains, street furniture, lights, or similar items.
- (8) Location of existing and proposed buildings.
- (9) Parking layout and traffic patterns.
- (10) Location of all overhead and underground utilities.
- (11) Landscaping plans for new and existing construction of buildings over 5,000 square feet or greater than two (2) stories shall be prepared in compliance with the provisions of § 62-2-102 of the Tennessee Code. (as added by Ord. #03-773, Dec. 2003)

**14-2004. Maintenance and replacement.** Trees, shrubs, fences, walls and other landscape and/or screening and buffer yard features installed to meet the requirements of this section and depicted on plans approved by the codes official shall be considered as elements of the project in the same manner as parking, building materials and other details are elements of the plan. The landowner, or successors in interest, or agent, if any, shall be jointly and severally responsible for the following:

- (1) Regular maintenance shall be provided so that all landscaping and/or screening and buffer yards remain in good condition and present a healthy, neat and orderly appearance. All landscaping shall be maintained so that it is free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance, as needed and in accordance with acceptable horticultural practices. It is recommended that an irrigation system be installed.
- (2) Required landscaping and/or screening structures, such as walls and fences, shall be repaired or replaced so that they remain in a structurally sound condition.

(3) Failure to maintain required landscaping and/or screening and buffer yards shall be a violation of this zoning code and subject to penalties as specified. (as added by Ord. #03-773, Dec. 2003)

**14-2005. Landscaping requirements.** The provision of trees, shrubs and vegetation contributes to a desirable quality of life for residents and visitors by producing an aesthetically pleasant and healthy environment. The following requirements shall be considered as the minimum standards for the protection of natural plant communities and features and for the planning and continued maintenance of installed landscaping within the City of Sparta.

(1) Landscape yards. Landscape yards shall be provided in all districts except the Central Business District (C-C) and for all uses and structures except those specifically exempted in § 14-2002. The requirements for landscape yards shall be in addition to any requirements of parking area landscaping as specified in § 14-2005(2) of this zoning code. Said landscape yards shall meet the following requirements:

(a) Establishment of landscape yards. Landscape yards shall be established along all abutting streets within required front, side and/or rear yard setback areas.

(b) Minimum width of landscape yards. The minimum width of the landscape yard shall be ten (10) feet, exclusive of curbing. See Illustration 1,<sup>1</sup> "Landscape Yards".

(c) Number of trees required. One (1) shade tree, or two (2) ornamental trees shall be planted per every fifty (50) linear feet, or any fraction thereof, of street frontage.

(d) Standards for trees in landscape yards. Trees for landscape yards shall meet the requirements of § 14-2005(3) of this zoning code.

(e) Location of trees in landscape yards. Unless specified by the building official, trees may be spaced or grouped at the discretion of the developer. Trees shall not be located so as to impair visibility at any street intersection or at the intersection of any driveway with a street.

(f) Trees located underneath utility lines. When the landscape yard occurs underneath utility lines, ornamental trees whose mature height does not exceed twenty (20) feet shall be planted at a rate of one (1) tree for each fifty (50) feet of frontage occurring under utility lines.

(2) Parking area landscaping. The following standards for landscaping of parking lots shall apply to the interior of all off-street parking areas. They shall not apply to vehicle and equipment sales lots, multi-level parking structures, areas devoted to drive-through lanes, or to vehicle and equipment storage areas.

(a) Minimum width of interior landscaped strips. Interior landscaped strips shall be a minimum of five (5) feet in width, exclusive of curbing, and shall be planted with acceptable indigenous landscaping

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<sup>1</sup>Illustrations are provided in § 14-2007.

materials. If trees are located in interior landscaped strips, said strips shall be a minimum of eight (8) feet in width, exclusive of curbing. See Illustration 2<sup>1</sup> for examples.

(b) Curbing required. Interior landscaped strips shall be surrounded with a concrete raised curb six (6) inches in height.

(c) Number of trees required. One (1) shade tree shall be provided per thirty (30) parking spaces, or any fraction thereof. If parking spaces do not exceed thirty (30) spaces, trees are recommended but not required in the parking area. A maximum of fifty (50) percent of the required shade trees may be replaced by ornamental trees at a ratio of two (2) ornamental trees for each shade tree replaced.

(d) Standards for terminal islands. The use of terminal islands for rows of parking spaces is encouraged for the location of trees required for interior parking areas. Parking area terminal islands containing trees shall be a minimum of eight (8) feet in width and shall be the length of the two (2) adjacent parking spaces. Landscape terminal islands shall be surrounded with a concrete raised curb six (6) inches in height.

(e) Alignment. In landscape strips or islands the planting of trees in alignment with parking space liens is encouraged to reduce the potential for damage from vehicles.

(f) Standards for trees in parking area landscaping. Trees required for interior parking areas shall meet the requirements of § 14-2005(3) of this zoning code.

(3) General tree planting standards. The following general standards for tree planting shall apply:

(a) Tree sizes. (i) Shade trees shall be a minimum of two (2) inches in caliper.

(ii) Ornamental trees shall be a minimum of one and a half (1½) inches in caliper.

(iii) Evergreen trees shall be a minimum height of six (6) feet at the time of planting.

(b) Location. (i) No tree shall be planted closer than five (5) feet from any street right-of-way, driveway, sidewalk or curb.

(ii) No tree shall be planted closer than ten (10) feet from any fire hydrant, utility pole or street light.

(iii) No tree shall be planted so as to block visibility at any street intersection.

(c) Tree preservation. Preservation of healthy trees, six (6) inches in caliper or greater, shall be credited toward the required number of trees per the following ration: for every six (6) inches of caliper preserved, a credit of one tree shall be granted, provided credit is limited to twenty-five (25) percent of required trees. Curbing placed around preserved trees shall be

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<sup>1</sup>Illustrations are provided in § 14-2007.

located no closer to the tree than the halfway point between the drip line and the trunk of the tree.

(d) Tree protection during construction. In order to receive credit for an existing tree or grove of trees, an area shall be established at the drip line and the trunk of the tree, which shall not be disturbed by construction activity, excluding mulching. The determination of the drip line shall be as depicted in Illustration 3.<sup>1</sup> This area shall be barricaded and marked with signage during construction. Damage to trees, including injuries resulting from chemical poisoning, concrete wash water, construction equipment, soil compaction, grading, paving and/or other mechanical injuries to the roots, trunk, or branches of the tree that will result in their death within one (1) year of construction shall negate any credit for preservation.

(e) Mixture of trees. Sites with required new trees of ten (10) or more, excluding trees used for required screening shall provide the following variety of trees:

NUMBER OF REQUIRED TREES	MINIMUM REQUIRED VARIETY OF TREES	MAXIMUM PERCENT OF ANY VARIETY
10-19	2	65%
20-29	3	50%
30-39	4	40%
40+	5	35%

(4) Landscape material standards. The following standards shall apply for all landscape materials:

(a) Landscape and plant materials installed to satisfy the requirements of this section shall conform to or exceed the plant quality standards of the most recent edition of American Standard for Nursery Stock, published by the American Association of Nurserymen.

(b) All shade trees shall have a single leader.

(c) Use of riprap or shot rock. The use of riprap, shot rock or similar materials is strongly discouraged and shall only be used to stabilize soil around culverts and drains or where engineering requirements deem necessary for erosion control. Riprap, shot rock or similar materials shall not be used to landscape where erosion can be controlled by vegetation.

(5) Installation. (a) Timing. The codes official, in conjunction with the tree board, shall be consulted to determine the proper time to move and install plant materials so that stress to the plants is minimized. A temporary certificate of occupancy may be issued when extremes in weather

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<sup>1</sup>Illustrations are provided in § 14-2007.

or soil conditions are not favorable to landscaping. All planting materials shall be completed by the next planting season not to exceed six (6) months time after the issuance of a temporary certificate of occupancy.

(b) Staking. Staking materials shall not be used unless absolutely necessary. If staking is necessary, then the owner shall remove staking materials after one growing season.

(c) Planting. The owner shall ensure that all planting areas including tree pits, hedge trenches and shrub beds are excavated appropriately. All pits shall be a minimum of two (2) feet deep with a width at least twice the diameter of the root ball. The tree shall be deep enough to allow one (1) inch from the crown of the root ball to be above finished grade. Soil within the planting areas shall be free of rock, debris, inorganic compositions and chemical residues detrimental to plant life. Soil shall be compatible with the composition of the existing sub-soil and sufficiently blended to ensure adequate exchange of air and water between the planting area and the adjacent soil strata. Plants shall rest on a well compacted surface.

(d) Planting pits. Planting pits will take into account surface runoff and soil conditions. The owner shall be responsible for proper drainage and the resulting survival of the plants contained within the pit thereof.

(e) Mulching. All planting areas shall be mulched with a three (3) to four (4) inch layer of bark, pine needles, or other suitable material, to cover the complete planting area. Mulch within six (6) inches of the tree trunks shall be no deeper than one-half (½) inch. (as added by Ord. #03-773, Dec. 2003)

**14-2006. Screening and buffer yard requirements.** Screening and buffer yards are intended to reduce or exclude visual contact between uses and to create impressions of special separation. The following requirements shall apply for all uses or structures requiring screening and buffer yards.

(1) Applicability. Screening and buffer yards are required where the development of a higher impact use abuts a lower impact use as classified in § 14-2006(2).

(2) Impact classification. (a) No impact (N). All permitted uses in the RA zone are considered to have no impact unless a specific use is classified elsewhere. The following uses shall be considered to have no impact regardless of zoning classification: single family and two family residential, parks, and golf courses.

(b) Low impact (L). All permitted uses in the R-B zone are considered to have a low impact unless a specific use is classified elsewhere.

(c) Moderate impact (M). All permitted uses in the C-A, C-B, and C-D zones are considered to have a moderate impact unless a specific use is classified elsewhere. Non-residential uses in the CN zone are also

considered to have a moderate impact. The following uses shall be considered to have a moderate impact regardless of zoning classification: off-site parking lots located in residential district, gasoline service stations, convenience stores, and self-storage or min-warehouses.

(d) High impact (H). All permitted uses in the M-I zone are considered to have a high impact unless a specific use is classified elsewhere. The following uses shall be considered to have a high impact regardless of zoning classification: junk/salvage yards and outdoor storage yards.

(3) Location requirements for screening and buffer yards. The location and type of screening shall be as follows:

(a) Side and rear property lines. Where the side or rear property lines of a proposed higher impact use abut a use or district of a lesser impact, whether or not there is an intervening street or alley, screening and buffer yards shall be provided by the higher impact use along abutting side and/or rear property lines according to the following chart:

REQUIRED SCREEN/BUFFER YARD TYPE FOR  
SIDE AND REAR PROPERTY LINES

		Proposed Use Classification			
		N	L	M	H
Adjoining Use Classification	N	None	1	2	3
	L	None	None	1	2
	M	None	None	None	1
	H	None	None	None	None

(b) Front property lines: Where the front property line of a proposed higher impact use abuts a use or district of a lesser impact, whether or not there is an intervening street or alley, screening and buffer yards shall be provided by the higher impact use along its front property line according to the following chart:

		Proposed Use Classification			
		N	L	M	H
Adjoining Use Classification	N	None	None	1	2
	L	None	None	None	1
	M	None	None	None	None
	H	None	None	None	None

(4) Description of screens and buffer yards by type. (a) Type 1 screen/buffer yard. A Type 1 screen/buffer yard is intended to create the impression of a separation of spaces without necessarily eliminating visual contact

between the uses. The buffer yard shall be a minimum of ten (10) feet in width. The screening shall consist of intermittent visual obstruction to a height of at least ten (10) feet. Screening may be composed of a wall, solid fence (wood, brick, or masonry), landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observations of existing vegetation. The screen may contain deciduous plants. Suggested planting standards that will achieve the requirements for Type 1 screen/buffer yard are depicted on Illustration 4.<sup>1</sup>

(b) Type 2 screen/buffer yard. A Type 2 screen/buffer yard is intended to partially block visual contact between uses and to create an impression of the separation of spaces. The buffer yard shall be a minimum of twenty (20) feet in width. The screening shall be completely opaque from the ground to height of three (3) feet, with intermittent visual obstruction above the opaque portion to a height of at least ten (10) feet. Screening may be composed of a wall, solid fence (wood, brick, or masonry), landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observations of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. Deciduous plants may be used to meet the intermittent screening portion of the semi opaque screen. Suggested planting standards that will achieve the requirements for Type 2 screen/buffer yard are depicted on Illustration 5.<sup>1</sup>

(c) Type 3 screen/buffer yard. A type 3 screen/buffer yard is intended to exclude all visual contact between uses. The buffer yard shall be a minimum of thirty (30) feet in width. The screening shall be completely opaque from the ground to a height of at least eight (8) feet. A greater height may be required by the building official if it is determined that, due to topographic reasons, the screening will not adequately exclude visual separation. Screening may be composed of a wall, solid fence (wood, brick or masonry), landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observations of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. Suggested planting standards that will achieve the requirements for Type 3 screen/buffer yard are depicted on Illustration 6.<sup>1</sup>

(5) Standards for screening materials. (a) When earthen berms are utilized in screening they shall meet the following requirements:

(i) Shall have a minimum height of three (3) feet.

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<sup>1</sup>Illustrations are provided in § 14-2007.



- (ii) Shall have a minimum crown width of two (2) feet.
- (iii) Shall have a minimum side slop of 2:1.
- (iv) Shall be planted in grass or other suitable ground cover.
- (b) When fences or wall are utilized in screening, they shall meet the following requirements:
  - (i) Shall be constructed of materials compatible with the principal building.
  - (ii) Wire fencing and unfinished cinder block walls shall not be permitted to meet the screening requirements.
  - (iii) The finished side of all fences and walls utilized to meet the requirements of this section shall face the street or adjoining properties.
- (c) Trees and shrubbery shall be of a species common to the Sparta area, shall be hardy, and proper care shall be taken in planting. (as added by Ord. #03-773, Dec. 2003)

#### 14-2007. Illustrations.

Illustration 1

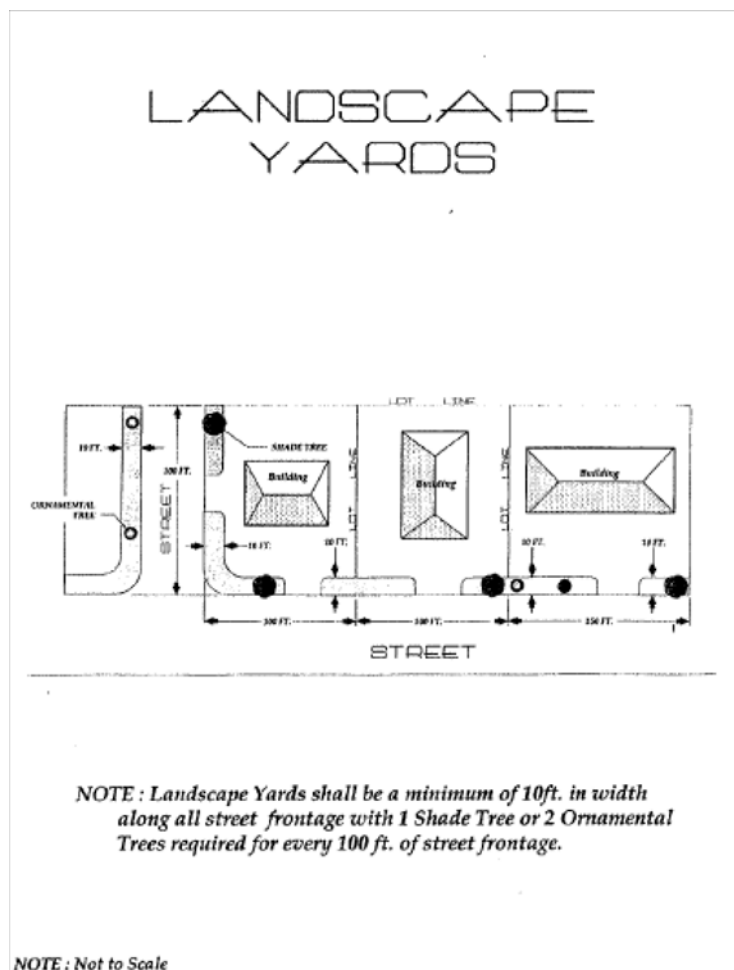


Illustration 2

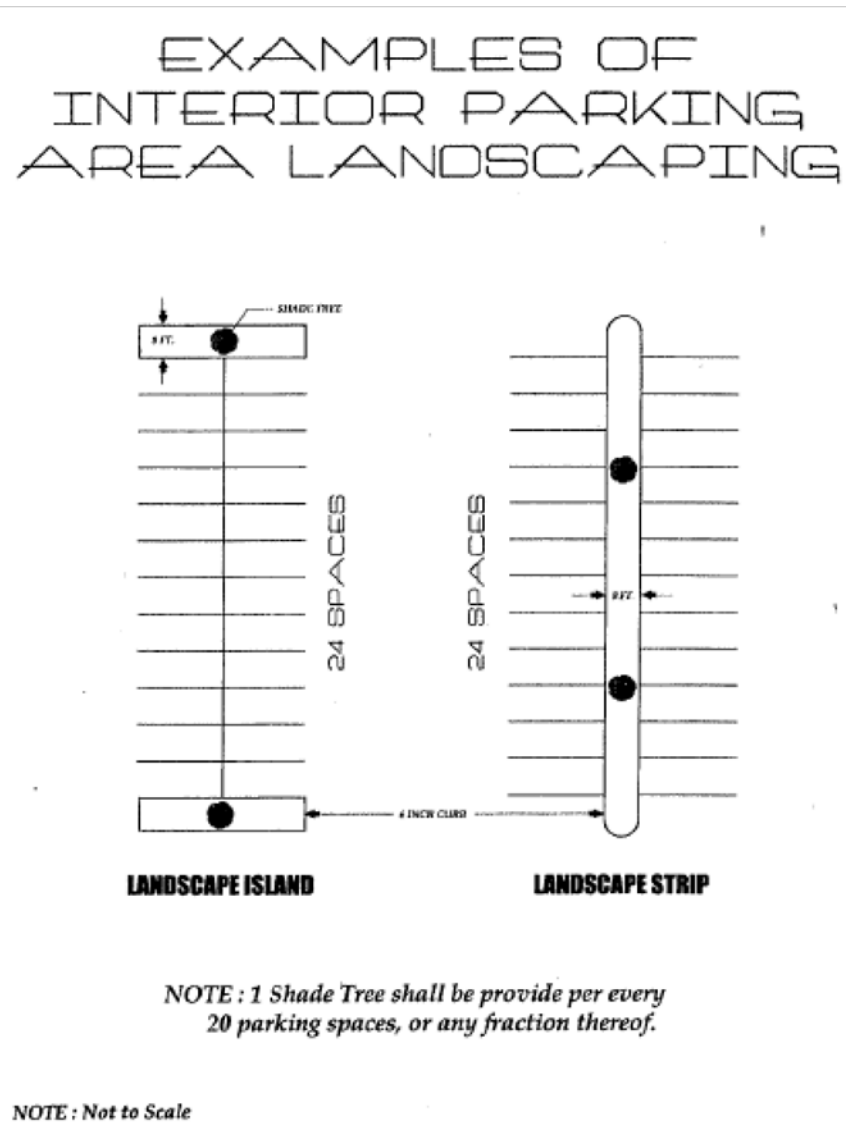
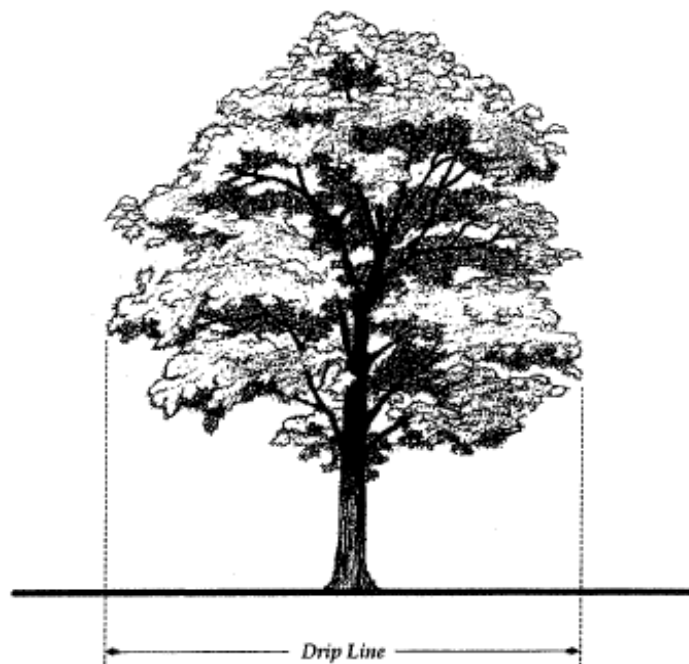


Illustration 3

# DETERMINATION OF DRIP LINE



*NOTE : Not to Scale*

Illustration 4

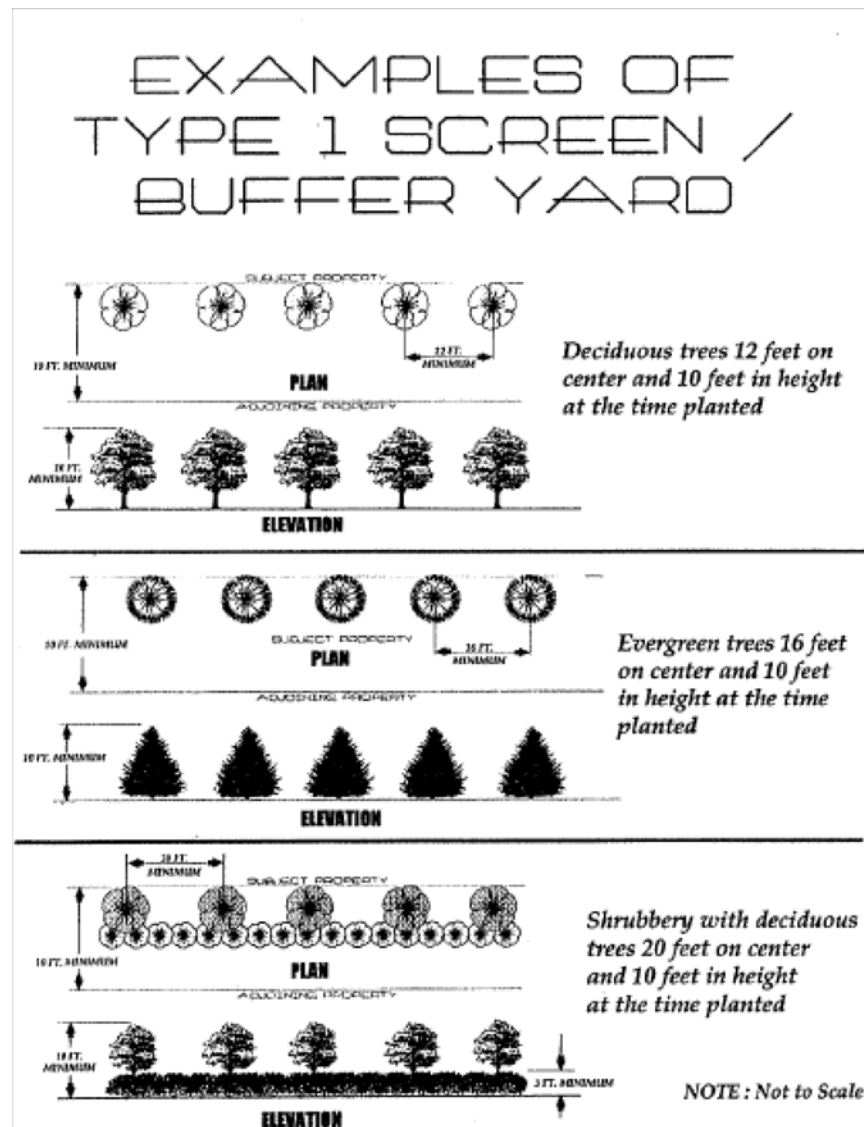


Illustration 5

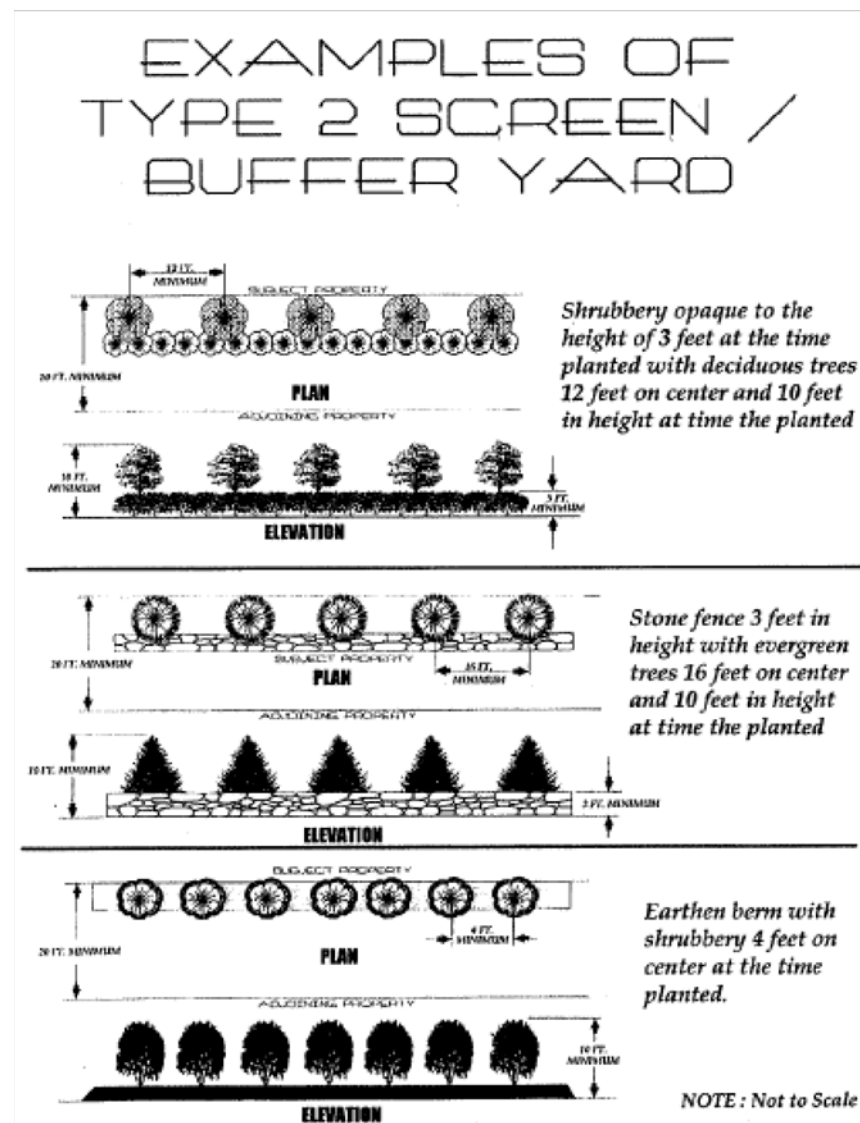
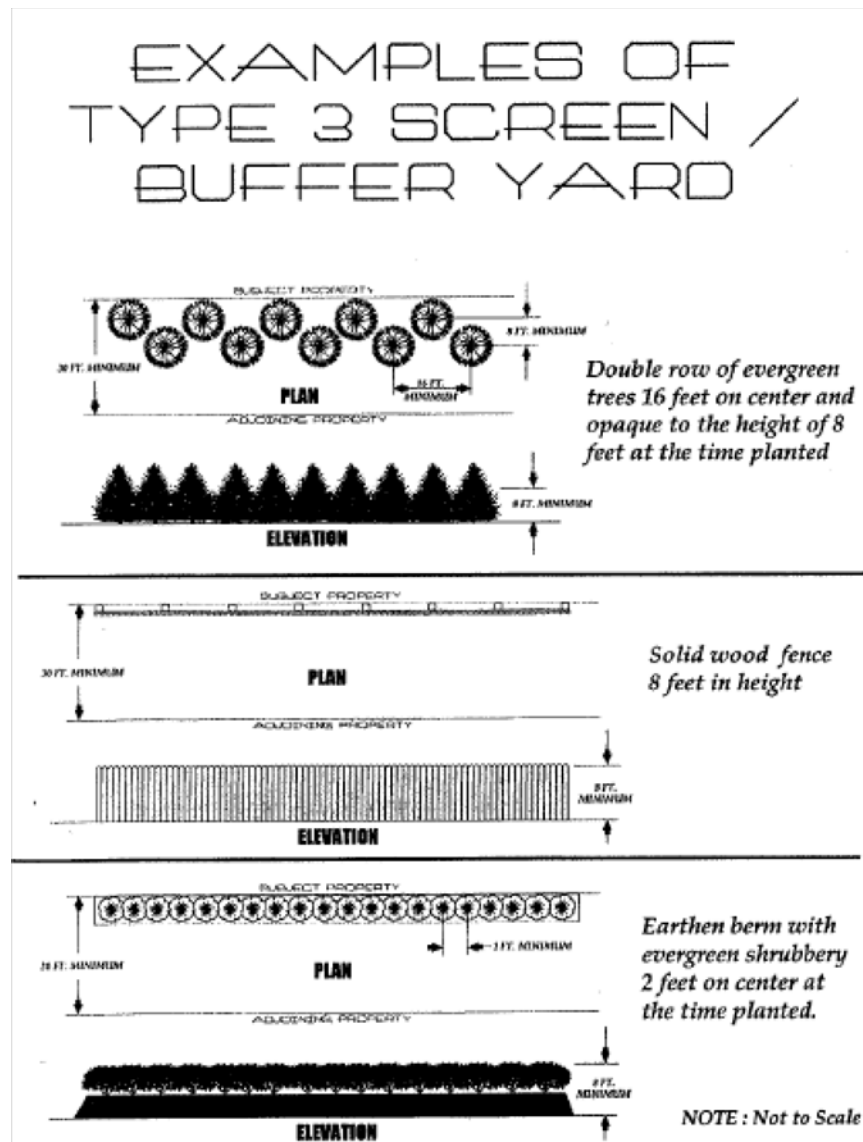


Illustration 6



## CHAPTER 21

### **METHADONE AND SUBSTANCE ABUSE TREATMENT FACILITIES**

#### **SECTION**

- 14-2101. Purpose and intent.
- 14-2102. Permitted.
- 14-2103. Applicability.
- 14-2104. Site plan required.

**14-2101. Purpose and intent.** The purpose and intent of this section is to provide minimum standards for clinics in the City of Sparta, Tennessee. (as added by Ord. #09-840, Oct. 2009)

**14-2102. Permitted location.** Uses permitted upon appeal, subject to review and approval by the board of zoning appeals.

M-I Industrial District: subject to site plan review by the planning commission. (as added by Ord. #09-840, Oct. 2009)

**14-2103. Applicability.** The standards of this section for methadone treatment clinic or facility and substance abuse treatment facilities shall apply as follows:

(1) The consideration for approval by the planning commission of a methadone treatment clinic or facility and substance abuse treatment facility shall be contingent upon the receipt of the appropriate license and certificate of need by the State of Tennessee.

(2) Maps showing existing land use and zoning within one-quarter (1/4) mile of the proposed site should be submitted with an application "uses permitted upon appeal" for board of zoning appeals review along with the license of the applicant, certificate of need, property survey, site plan or other information deemed reasonable by the planning commission for use in making a thorough evaluation of the proposal.

(3) The clinic or facility shall be located on and have access to a principal arterial street.

(4) Measurement shall be made in a straight line on the Sparta Zoning Map from the nearest property line of the lot on which the methadone treatment clinic or facility and substance abuse treatment facility is situated to the nearest property line of the following uses.

(a) The clinic or facility shall not be located within one thousand feet (1,000') of a school, day care facility, park, church, synagogue, mortuary or hospital.

(b) The clinic or facility shall not be located within one thousand feet (1,000') of any establishment that sells alcoholic beverages for either on or off-premises consumption.

(c) The clinic or facility shall not be located within one thousand feet (1,000') of any area devoted to public recreation activity.

(d) The clinic or facility shall not be located within one thousand feet (1,000') of any amusement catering to family entertainment.

(e) The site shall not be less than one thousand feet (1,000') of any residential dwelling at the time of approval.

(f) The site shall not be less than one-half (1/2) mile from any other methadone treatment clinic or facility and substance abuse treatment facility. (as added by Ord. #09-840, Oct. 2009)

**14-2104. Site plan required.** For the use permitted in the M-1 zoning district, a site plan shall be prepared indicating all property lines, proposed buildings, parking lots, sidewalks, dumpster/services areas, building drop-off areas, site entry/exit, above and below ground utilities, easements, outdoor recreational areas and landscape screening. The site plan shall be prepared by a licensed engineer and or architect. (as added by Ord. #09-840, Oct. 2009)



**TITLE 15****MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ADMINISTRATION AND ENFORCEMENT.

**CHAPTER 1****MISCELLANEOUS<sup>2</sup>****SECTION**

- 15-101. Statutes adopted.
- 15-102. Vehicles to be equipped as prescribed by state law.
- 15-103. Driving on streets closed for repairs, etc.
- 15-104. Reckless driving.
- 15-105. Following too closely.
- 15-106. One-way streets.
- 15-107. Unlaned streets.
- 15-108. Laned streets.
- 15-109. Yellow lines.
- 15-110. Miscellaneous traffic-control signs, etc.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-111. Types of signs, devices generally.
- 15-112. Presumption of official nature of signs, devices.
- 15-113. Driving in a procession.
- 15-114. Driving through processions.
- 15-115. Clinging to vehicles.
- 15-116. Riding on outside of vehicles.
- 15-117. Loads projecting from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Operators to be licensed.
- 15-120. No-passing zones.
- 15-121. One-way streets and rotary traffic islands.
- 15-122. Number of passengers in front seat.
- 15-123. "Lap" driving prohibited.
- 15-124. Vehicles damaging pavements prohibited.
- 15-125. Use of coasters and similar devices restricted.
- 15-126. Bicycles to obey traffic-control devices.
- 15-127. Riding bicycles on sidewalks regulated.
- 15-128. Child passenger restraint systems.
- 15-129. Size, weight, load restricted generally.
- 15-130. Load restrictions upon vehicles using certain streets.
- 15-131. License plates, title card required for vehicles.
- 15-132. Chief of police to designate crosswalks, safety zones.
- 15-133. Boarding, alighting from moving vehicles.
- 15-134. Opening doors into traffic.
- 15-135. "Jaywalking" regulated.
- 15-136. Driving through safety zone.
- 15-137. Driving across private, public property.
- 15-138. Traffic-control signals.
- 15-139. Pedestrian-control signals.
- 15-140. Flashing signals.
- 15-141. At yield signs.
- 15-142. At stop signs.
- 15-143. Compliance with financial responsibility law required.

**15-101. Statutes adopted.** Pursuant to Tennessee Code Annotated, § 55-10-307, the City of Sparta hereby adopts by reference as part of this chapter, Tennessee Code Annotated, §§ 55-8-101 through 55-8-180 and 55-10-101 through 55-10-310, 55-9-603 and 55-9-107. Any person violating any provisionals of the state laws hereby adopted shall be guilty of a misdemeanor. (Ord. #97-693, March 1997, as amended by Ord. #07-826, Nov. 2007)

**15-102. Vehicles to be equipped as prescribed by state law.** Neither the operator nor the owner of any vehicle shall cause or permit such vehicle to be operated upon any street, alley or other public place unless the vehicle is equipped and maintained with warning devices, lights, brakes,

mufflers, windshield wipers, rear view mirrors, and other equipment as is prescribed by the Tennessee Code Annotated, title 55, chapter 9. (Ord. 97-693, March 1997)

**15-103. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or for any other lawful purpose. (Ord. #97-693, March 1997)

**15-104. Reckless driving.** Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (Ord. #97-694, March 1997)

**15-105. Following too closely.** The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway. (Ord. #97-694, March 1997)

**15-106. One-way streets.** On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (Ord. #97-694, March 1997)

**15-107. Unlaned streets.** (1) Upon all unlaned streets of sufficient width a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the municipality for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (Ord. #97-694, March 1997)

**15-108. Laned streets.** On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (Ord. #97-694, March 1997)

**15-109. Yellow lines.** On streets with a yellow line placed to the right of any lane line or center line such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (Ord. #97-694, March 1997)

**15-110. Miscellaneous traffic-control signs, etc.**<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control, sign, signal, marking, or device placed or erected by the state or the municipality unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (Ord. #97-694, March 1997)

**15-111. Type of signs, devices generally.** All traffic-control signs, signals, markings and devices shall conform to the latest revision of the Manual of Uniform Traffic Control Devices for Streets and Highways,<sup>2</sup> published by the U. S. Department of Transportation, Federal Highway Administration and shall, so far as practicable, be uniform as to type and location throughout the municipality. This section is merely directive and not mandatory. (Ord. #97-693, March 1997)

**15-112. Presumption of official nature of signs, devices.** When a traffic-control sign, signal, marking or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. All presently installed traffic-control signs, signals, markings, and devices are hereby authorized, ratified, and made official. (Ord. #97-693, March 1997)

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<sup>1</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

<sup>2</sup>This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

**15-113. Driving in a procession.** Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe. (Ord. #97-694, March 1997)

**15-114. Driving through processions.** Except when otherwise directed by a police officer no driver of a vehicle other than an authorized emergency vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (Ord. #97-694, March 1997)

**15-115. Clinging to vehicles.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (Ord. #97-694, March 1997)

**15-116. Riding on outside of vehicles.** It shall be unlawful for any person to ride on or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (Ord. #97-694, March 1997)

**15-117. Loads projecting from rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ( $\frac{1}{2}$ ) hour after sunset and one-half ( $\frac{1}{2}$ ) hour before sunrise there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (Ord. #97-693, March 1997)

**15-118. Causing unnecessary noise.** It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, racing the motor, or causing the screeching or squealing of the tires on any motor vehicle. (Ord. #97-694, March 1997)

**15-119. Operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the Tennessee "Uniform Classified and Commercial Drivers License Act of 1988." Including violations of Tennessee Code Annotated, § 55-50-331, Section (d) which states the department of safety, upon issuing a license, shall have the authority to impose restrictions suitable

to the licensee's driving ability with respect to the type of, or special, mechanical control devices required on a motor vehicle which the licensee may operate, or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. (Ord. #97-693, March 1997)

**15-120. No-passing zones.** The board of mayor and aldermen is hereby authorized to determine those portions of any street where overtaking and passing or driving to the left of the roadway would be especially hazardous and the street department shall by a yellow line on the roadway to the right of the lane line indicate the beginning and end of such zones. No operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (Ord. #97-694, March 1997)

**15-121. One-way streets and rotary traffic islands.** (1) The board of mayor and aldermen may designate any street or any separate roadway under its jurisdiction for one-way traffic and the street department shall erect appropriate signs giving notice thereof.

(2) A vehicle passing around a rotary traffic island shall be driven only to the right of such island. (Ord. #97-694, March 1997)

**15-122. Number of passengers in front seat.** No one shall drive or operate a vehicle if more than two (2) other people are on the front seat. (Ord. #97-694, March 1997)

**15-123. "Lap" driving prohibited.** While a vehicle is in motion, the operator thereof shall not have in his lap any other person, adult or minor, nor shall the operator be seated in the lap of another. (Ord. #97-694, March 1997)

**15-124. Vehicles damaging pavements prohibited.** No person shall operate upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or tracks is likely to damage the surface or foundation of the street. (Ord. #97-694, March 1997)

**15-125. Use of coasters and similar devices restricted.** No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. (Ord. #97-693, March 1997)

**15-126. Bicycles to obey traffic-control devices.** (1) Any person operating a bicycle shall obey the instructions of official traffic-control signals,

signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(2) Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians. (Ord. #97-693, March 1997)

**15-127. Riding bicycles on sidewalks regulated.** (1) No person shall ride a bicycle upon a sidewalk within the business district.

(2) No person fifteen (15) or more years of age shall ride a bicycle upon any sidewalk in any district.

(3) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian. (Ord. #97-693, March 1997)

**15-128. Child passenger restraint systems.** Any person transporting a child under the age of four (4) years in a motor vehicle upon a road, street, or highway in the city limits is responsible for providing for the protection of the child and properly using a child passenger restraint system meeting federal motor vehicle safety standards.

Nothing in this subsection restricts a mother from removing the child from the restraint system and holding the child when the mother is nursing the child, or attending to its other physiological needs, Tennessee Code Annotated, § 55-8-602d. (Ord. #97-694, March 1997)

**15-129. Size, weight, load restricted generally.** It shall be unlawful for any person to operate upon any street or alley of the municipality any vehicle which violates the size, weight or load restrictions of Tennessee Code Annotated, title 55, chapter 7 law, unless he/she shall first obtain a permit from the chief of police. The chief shall issue such a permit only upon a written application which reasonably establishes that such an operation can and probably will be accomplished without injury or damage to any person or property. The application must be submitted at least three (3) days in advance of the contemplated operation, must be in such form as is prescribed by the chief of police, and must be accompanied by an indemnity bond in the amount of one thousand dollars (\$1,000.00), which indemnity bond shall be designated for the benefit of any person who suffers personal injury or property damage as a result of such vehicle's operation and for which the permittee is found to be liable. (Ord. #97-693, March 1997)

**15-130. Load restrictions upon vehicles using certain streets.** When signs are erected giving notice hereof, no person shall operate any vehicle

with a gross weight in excess of the weight so posted at any time upon any of the streets or parts of streets affected by such signs. (Ord. #97-693, March 1997)

**15-131. License plates, title card required for vehicles.** Neither the operator nor the owner of any vehicle shall cause or permit such vehicle to be upon any street, alley or other public place unless the license plates and title card are attached, exhibited and maintained thereon in conformity with state law. (Ord. #97-693, March 1997)

**15-132. Chief of police to designate crosswalks, safety zones.** The chief of police is hereby empowered as follows:

(1) Crosswalks. To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such places as he may deem necessary.

(2) Safety zones. To establish zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians. (Ord. #97-693, March 1997)

**15-133. Boarding, alighting from moving vehicles.** No person shall board or alight from any vehicle while such vehicle is in motion. (Ord. #97-693, March 1997)

**15-134. Opening doors into traffic.** No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (Ord. #97-693, March 1997)

**15-135. "Jaywalking" regulated.** No pedestrians shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk. However, at intersections where traffic-control signals have traffic stopped in all directions these provisions shall not apply to pedestrians crossing within the area common to both intersecting roadways. (Ord. #97-693, March 1997)

**15-136. Driving through safety zone.** No vehicle shall at any time be driven through or within a safety zone. (Ord. #97-694, March 1997)

**15-137. Driving across private, public property.** No one shall drive a vehicle from a street or alley across premises on which a filling station, store or other business concern is located, or across public property, for the sole purpose of passing from one street or alley to another. (Ord. #97-694, March 1997)



**15-138. Traffic-control signals.** The board of mayor and aldermen may designate intersections and other places at which traffic-control signals complying with Tennessee Code Annotated, § 59-810 shall be used to regulate traffic. Said signals shall be erected and maintained by the electric department. It shall be unlawful to fail to comply with any such signal in the manner provided by Tennessee Code Annotated, § 59-810 except that vehicles facing a red alone or stop signal may proceed to make a right turn after coming to a complete stop and yielding the right-of-way if there is in place a sign or other marking authorizing such movement. (Ord. #97-694, March 1997)

**15-139. Pedestrian-control signals.** The board of mayor and aldermen may designate intersections and other places at which pedestrians shall be controlled by signals, conforming to Tennessee Code Annotated, § 59-811. Said signals shall be erected and maintained by the electric department. It shall be unlawful to fail to comply with any such signal in the manner provided by Tennessee Code Annotated, § 59-811. (Ord. #97-694, March 1997)

**15-140. Flashing signals.** The board of mayor and aldermen may designate intersections and other places at which vehicular traffic shall be controlled by flashing red or flashing yellow signals. Said signals shall be erected and maintained by the electric department. It shall be unlawful to fail to comply with any such signal in the manner provided by Tennessee Code Annotated, § 59-812. (Ord. #97-694, March 1997)

**15-141. At yield signs.** The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (Ord. #97-694, March 1997)

**15-142. At stop signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection safely. (Ord. #97-694, March 1997)

**15-143. Compliance with financial responsibility law required.**

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence for all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insured under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #02-744, March 2002, and replaced by Ord. #06-812, Oct. 2006)

## CHAPTER 2

### EMERGENCY VEHICLES

#### SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (Ord. #97-693, March 1997)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (Ord. #97-693, March 1997)

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<sup>1</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
§ 15-501.

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park any vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (Ord. #97-693, March 1997)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (Ord. #97-693, March 1997)

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. Speed limit generally.

15-302. Speed limit at intersections.

15-303. Speed limit in school zones and near playgrounds.

15-304. Speed limit in specific areas.

15-305. Careless driving.

**15-301. Speed limit generally.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty-five (35) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (Ord. #97-694, March 1997)

**15-302. Speed limit at intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (Ord. #97-694, March 1997)

**15-303. Speed limit in school zones and near playgrounds.** It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by authority of the municipality. This section shall not apply at times when children are not in the vicinity of school. (Ord. #97-694, March 1997)

**15-304. Speed limit in specific areas.** The board of mayor and aldermen may establish speed limits different from those set out in this chapter, and it shall be the duty of the street department to place and maintain signs or other markings giving notice of such speed limits. It shall be unlawful for any person to operate or drive a motor vehicle at a rate of speed in excess of any posted speed limit. (Ord. #97-694, March 1997)

**15-305. Careless driving.** Every person operating a motor vehicle, motorcycle, or motor driven cycle on any public road, highway, street, alley, or on any area open to the use of the public for purposes of vehicular traffic within the corporate limits of the City of Sparta, shall drive such vehicle in a careful and prudent manner, having due regard for the width, grade, curves, corners, traffic, and use of these roadways and areas and all other attendant circumstances, so as not to endanger the life, limb, or property of any person.

Failure to drive in such a manner shall constitute careless driving. (Ord. #97-694, March 1997)

## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Turn regulations.

15-402. "U" turns prohibited.

**15-401. Turn regulations.** The board of mayor and aldermen may regulate, restrict or prohibit the making of turning movements. The street department shall place and maintain markings, buttons or signs giving notice of such regulations, restrictions or prohibitions, and it shall be unlawful to disobey or fail to comply with any such markings, buttons or signs. (Ord. #97-694, March 1997)

**15-402. "U" turns prohibited.** No driver of a motor vehicle shall make a "U" turn upon any street of the municipality. (Ord. #97-694, March 1997)

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian-control signals.
- 15-510. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (Ord. #97-695, March 1997)

**15-502. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (Ord. #97-695, March 1997)

**15-503. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control indication to proceed. (Ord. #97-695, March 1997)

**15-504. At railroad crossings.** Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the

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<sup>1</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.



nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (Ord. #97-695, March 1997)

**15-505. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection and shall remain standing until it is safe to proceed through the intersection. (Ord. #97-695, March 1997)

**15-506. At "yield" signs.** The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (Ord. #97-695, March 1997)

**15-507. At traffic-control signals generally.** Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

- (1) Green alone, or "Go":
  - (a) Vehicle traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
  - (b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (2) Steady yellow alone, or "Caution":
  - (a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
  - (b) Pedestrians facing such signal shall not enter the roadway unless authorized to do so by a pedestrian "Walk" signal.
- (3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized to do so by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized to do so by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (Ord. #97-695, March 1997)

**15-508. At flashing traffic-control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected by the municipality it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop sign). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this title. (Ord. #97-695, March 1997)

**15-509. At pedestrian-control signals.** Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (Ord. #97-695, March 1997)

**15-510. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (Ord. #97-695, March 1997)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 55-8-143.

## CHAPTER 6

### PARKING

#### SECTION

- 15-601. Manner of parking generally.
- 15-602. Angle parking.
- 15-603. Vehicle to be entirely in one space.
- 15-604. Parking for washing, greasing, repairing.
- 15-605. Parking for sale.
- 15-606. Prohibited in loading and unloading zones.
- 15-607. Obstructing traffic.
- 15-608. Regulations at specific locations.
- 15-609. Stopping, standing or parking prohibited in specific spaces.
- 15-610. Use of bus stops, taxicab stands.
- 15-611. Maximum parking time limit.
- 15-612. Occupying more than one space.
- 15-613. Unauthorized parking in spaces designated for handicapped.
- 15-614. Pedestrians' right-of-way in crosswalk.
- 15-615. Presumption of responsibility for parking violation.

**15-601. Manner of parking generally.** Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are parallel to and within eighteen (18) inches 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 (18) inches of the left edge or curb of the street. (Ord. #97-695, March 1997)

**15-602. Angle parking.** On those streets which have been signed or marked by the city for angle parking no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (Ord. #97-695, March 1997)

**15-603. Vehicle to be entirely in 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. (Ord. #97-695, March 1997)

**15-604. Parking for washing, greasing, repairing.** 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. (Ord. #97-695, March 1997)

**15-605. Parking for sale.** It shall be unlawful to park or leave standing on any street any motor vehicle for the purpose of offering said vehicle for sale. (Ord. #97-695, March 1997)

**15-606. Prohibited in 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. (Ord. #97-695, March 1997)

**15-607. Obstructing traffic.** No person shall park any vehicle upon a street or alleyway in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic. (Ord. #97-695, March 1997)

**15-608. Regulations at specific locations.** The board of mayor and aldermen may from time to time regulate, restrict or prohibit the standing or parking of vehicles on specified streets or parts of streets or in specified areas. Signs or markings shall be installed and maintained by the street department giving notice of such regulations, restrictions and prohibitions, and it shall be unlawful to violate or fail to comply with any such sign or marking. (Ord. #97-695, March 1997)

**15-609. Stopping, standing or parking prohibited in specific spaces.** No person shall stop, stand or park a vehicle within fifteen (15) feet of a fire hydrant.

(1) **Fire lane.** No person shall stop, stand or park a vehicle at any place where an official sign prohibits stopping in a fire lane.

(2) At any place where official signs prohibit stopping or parking. (Ord. #97-695, March 1997)

**15-610. Use of bus stops, taxicab stands.** No person shall stop, stand or park a vehicle other than a bus in a bus stop or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. (Ord. #97-695, March 1997)

**15-611. Maximum parking time limit.** Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on

any public street or alley for more than seventy-two (72) hours without the prior approval of the chief of police. (Ord. #97-695, March 1997)

**15-612. Occupying more than one space.** It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking space or otherwise so that such vehicle is not entirely within the designated parking space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two (2) adjoining spaces. (Ord. #97-695, March 1997)

**15-613. Unauthorized parking in spaces designated for handicapped.** It shall be unlawful for any person, except a person who meets the requirements for the issuance of a distinguishing placard or license plate, a disabled veteran's license plate, or who meets the requirements of Tennessee Code Annotated, § 55-21-105(d), to park in any parking space designated with the wheelchair disabled sign. All parking spaces designated for handicapped must be properly marked with the wheelchair disabled sign and the words, "Unauthorized parking is punishable by a fine up to \$100". (Ord. #97-695, March 1997)

**15-614. Pedestrians' right-of-way in crosswalk.** (1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(3) Subsection (1) does not apply under the condition stated in Tennessee Code Annotated, § 55-8-135(b).

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (Ord. #97-695, March 1997)

**15-615. Presumption of responsibility for parking violation.** When any unoccupied vehicle is found parked in violation of any provision of this chapter there shall be prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (Ord. #97-695, March 1997)

## CHAPTER 7

### ADMINISTRATION AND ENFORCEMENT

#### SECTION

- 15-701. Authority of police, fire department officials, school patrols.
- 15-702. Records of moving traffic violations.
- 15-703. Disposition of fines, forfeitures.
- 15-704. Issuance of citations.
- 15-705. Failure to obey citation.
- 15-706. Interfering with citations; "fixing tickets."
- 15-707. Authority to impound vehicles generally; fees.
- 15-708. Enforcement of parking violations; parking penalties.
- 15-709. Disposal of "abandoned motor vehicles."
- 15-710. Deposit of chauffeur's or operator's license in lieu of bond.
- 15-711. Violation and penalty.

**15-701. Authority of police, fire department officials, school patrols.** (1) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this city and all of the state vehicle laws applicable to street traffic in this city.

(2) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers may require notwithstanding the provisions of the traffic laws.

(3) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(4) All motorists and pedestrians shall obey the directions or signals of school safety patrols, when such patrols are assigned under the authority of the chief of police, and are acting in accordance with instructions; provided, that such persons giving any order, signal or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (Ord. #97-696, March 1997)

**15-702. Records of moving traffic violations.** (1) Police department. The police department shall keep a record of all moving violations of the traffic laws of this city or of the state vehicle laws with which any person has been charged, together with a record of the final disposition of all such alleged offenses.

(2) Contents. Such record shall be so maintained as to show all types of violations and the total of each.

(3) To be three-year records. Said record shall accumulate during at least a three-year period and from that time on the record shall be maintained complete for at least the most recent three-year period.

(4) Records to be numbered. All forms for records of violations and notices of violations shall be serially numbered.

(5) Records to be public. All such records and reports shall be public records. (Ord. #97-696, March 1997)

**15-703. Disposition of fines, forfeitures.** All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this chapter shall be paid into the general fund of the city. (Ord. #97-696, March 1997)

**15-704. Issuance of citations.** When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the municipal 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. (Ord. #97-696, March 1997)

**15-705. 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. (Ord. #97-696, March 1997)

**15-706. Interfering with citations; "fixing tickets."** It shall be unlawful for any official of the city to interfere with the proper and due processing of a traffic citation. Any official guilty of willfully interfering with the proper and due processing of a traffic citation is subject to removal by appropriate administrative procedures which are prescribed by applicable federal, state, and local laws and regulations. (Ord. #97-696, March 1997)

**15-707. Authority to impound vehicles generally; fees.** Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any vehicle which is illegally parked, abandoned, or otherwise stopped so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the



owner claims it, gives satisfactory evidence of ownership, and pays, all applicable fines and costs. The fee for impounding a vehicle shall be ten dollars (\$10.00) and a storage cost of seven dollars (\$7.00) per day shall also be charged. (Ord. #97-696, March 1997)

**15-708. Enforcement of parking violations; parking penalties.**

(1) 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 five (5) days during the hours and at a place specified in the citation.

(2) For parking violations, the offender may waive his right to a judicial hearing and have the charges disposed of out of court by paying the assigned fines for the offense cited during the hours and at a place specified in the citation. (Ord. #97-696, March 1997)

**15-709. Disposal of "abandoned motor vehicles."** "Abandoned motor vehicles" shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-106 through 55-16-109. (Ord. #97-696, March 1997)

**15-710. Deposit of chauffeur's or operator's license in lieu of bond.** Pursuant to Tennessee Code Annotated, §§ 55-50-801 through 55-50-804, whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Department of Safety of the State of Tennessee, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of a traffic ordinance of the City of Sparta, except those ordinances which call for mandatory revocation of the chauffeur's or operator's license with the arresting officer or court demanding bail in lieu of any other security required for his appearance in the municipal court in answer to such charge before the municipal court.

Whenever any person hereof deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as hereinabove described, shall issue said person a receipt for said license upon a form approved or provided by the department of safety, and thereafter said person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited.

The clerk or judge of a court accepting the license shall thereafter forward to the department of safety, the license of a driver deposited in lieu of bail if the driver fails to appear in answer to the charge filed against him and which license shall not be released by the department of safety until the charge for

which such license was so deposited has been disposed of by the court in which pending. In the case of a nonresident driver whose license is thus received by the department of safety, the department shall forthwith notify the proper motor vehicle administrative authority of the state in which such nonresident driver is licensed that the license of such driver is being held by the department pending disposition of the charge against such driver.

The licensee shall have his license in his immediate possession at all times when driving a motor vehicle and shall display it upon demand of any officer or agent of the department or any police officer of the state, county or municipality, except that where the licensee has previously deposited his license with the officer or court demanding bail, and has received a receipt from the officer or the court, the same to serve as a substitute for the license until the specified date for court appearance of licensee or the license is otherwise returned to the licensee by the officer or court accepting the same for deposit.

The provisions of this section are in addition to the provisions of § 15-704 of the municipal code and may be implemented as alternative procedure to the provisions of § 15-704, but nothing in this section shall be construed to mean that officer or the court shall demand bail on every citation or arrest. (Ord. #97-696, March 1997)

**15-711. Violation and penalty.** Unless otherwise provided, any violation of this title shall be a civil offense punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

## **TITLE 16**

### **STREETS AND SIDEWALKS, ETC<sup>1</sup>**

#### **CHAPTER**

1. IN GENERAL.
2. EXCAVATIONS.
3. CURB CUTS.
4. PARADE ORDINANCE OF THE CITY OF SPARTA.
5. SKATEBOARDING AND ROLLER SKATING.

#### **CHAPTER 1**

#### **IN GENERAL**

#### **SECTION**

- 16-101. Damaging, defacing.
- 16-102. Obstructions prohibited.
- 16-103. Exceptions.
- 16-104. Littering.
- 16-105. Peddling from vehicles.
- 16-106. Vehicles spilling loads.
- 16-107. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-108. Porches, awnings over streets, sidewalks.
- 16-109. Obstruction of drainage ditches.
- 16-110. Abutting occupants to keep sidewalks clean, etc.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Obstructing visibility at intersections prohibited.
- 16-115. Exceptions.
- 16-116. Preexisting violations not excepted.
- 16-117. Notice, removal by property owner.
- 16-118. Removal by city.

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<sup>1</sup>Municipal code references

Banners across streets, etc.: §§ 11-1102--11-1119.

Interference with traffic: § 11-504.

Related motor vehicle and traffic regulations: title 15.

**16-101. Damaging, defacing.** It shall be unlawful for any person in any manner, whether by operating a vehicle or otherwise, to damage or deface any street, sidewalk, public square or public place. (1978 Code, § 12-101)

**16-102. Obstructions prohibited.** It shall be unlawful for any person to obstruct or cause the obstruction of any street, sidewalk or public way. (1978 Code, § 12-102)

**16-103. Exceptions.** Temporary obstructions of streets, sidewalks and public ways may be permitted by the administrative assistant upon application made to him if he finds that the obstruction will not result in undue hazard or inconvenience to the public. The administrative assistant may attach to such permission such conditions and requirements as he deems necessary for the protection of the public, including but not limited to the following:

- (1) Duration of the obstruction;
- (2) Location and extent of the obstruction;
- (3) Required safety precautions, such as barricades, lights, warning devices, etc. (1978 Code, § 12-103)

**16-104. Littering.** It shall be unlawful to throw or deposit any paper, paper boxes or other rubbish upon the streets or sidewalks of the city.<sup>1</sup> (1978 Code, § 12-104)

**16-105. Peddling from vehicles.** (1) It shall be unlawful to park a vehicle for the purpose of peddling or selling fruits, vegetables, goods, wares, products and/or merchandise for sale upon the streets, alleys, or sidewalks within one block of the public square or within one block of Broadway Street in the city, whether any such fruits, vegetables, goods, wares, products and/or merchandise are being peddled or sold by the owner thereof direct from his own farm, orchard or garden or otherwise; but this section shall not apply to any White County goods, products or merchandise.

(2) There is hereby established a second zone, consisting of the area beginning at the termination of the first block from the public square and beginning at the termination of the first block on each side of Broadway Street and ending at the termination of the second block therefrom, in which vehicles may be parked and in which such livestock, fruits, vegetables, goods, wares, products and/or merchandise may be exposed for sale. (1978 Code, § 12-105)

**16-106. Vehicles spilling loads.** It shall be unlawful to operate in the city any vehicle which, by reason of its construction, lack of repair, or otherwise,

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<sup>1</sup>Municipal code reference  
Litter regulations: title 11.

spills, sifts, drops or deposits on the streets of the city any part of the load carried thereon. (1978 Code, § 12-106)

**16-107. Gates or doors opening over streets, alleys, or sidewalks prohibited.**<sup>1</sup> It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1978 Code, § 12-107)

**16-108. Porches, awnings over streets, sidewalks.** It shall be unlawful to erect or maintain any wood or metal porch or awning over the streets or sidewalks of the city unless the same shall be so erected or constructed that it is drained by box gutters preventing water from falling directly on the sidewalk or street; and so anchored from above that it will support its own weight; and shall be constructed in a workman like manner so as to have an attractive appearance. All persons are hereby prohibited from erecting posts, columns or any other structures on the streets or sidewalks for the purpose of supporting any such porch or awning now in existence or which may hereafter be constructed. Before an awning or porch permitted under this section is erected, plans and specifications of the same shall be filed with the codes enforcement officer for his approval and the right is reserved in said codes enforcement officer to reject said plans if they do not conform to the requirements herein set out, or if in his opinion the erection of the same as proposed will be detrimental to the public interest. Provided however, that this section shall not apply to the erection or maintenance of depots or stations for use by public service companies in loading and unloading passengers; except that, before the erection of any such porch or awnings plans and specifications of the same shall in like manner be filed with the codes enforcement officer for his acceptance or rejection. (1978 Code, § 12-108)

**16-109. 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. (1978 Code, § 12-109)

**16-110. Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow or ice from the abutting sidewalk. (1978 Code, § 12-110)

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<sup>1</sup>Municipal code reference

Banners, festoons, etc., across streets: title 11.

Signs, etc., on streets and sidewalks: title 11.

**16-111. Operation of trains at crossings regulated.** No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1978 Code, § 12-112, modified)

**16-112. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1978 Code, § 12-113)

**16-113. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1978 Code, § 12-114)

**16-114. Obstructing visibility at intersections prohibited.** In all areas on public or private property at any corner formed by intersecting streets, it shall be unlawful to install, set out or maintain or to allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstruction to view, within that triangle formed by the curb lines (or the shoulder of the road where no gutter exists), of the intersecting streets drawn from the apex of the intersecting curb lines back a distance of sixty (60) feet with a line drawn between said points to form a base, such area to be herein referred to as a clear site zone. (1978 Code, § 12-115)

**16-115. Exceptions.** The provisions of § 16-113 shall not apply to permanent buildings; public utilities poles; hedges trimmed to a height of less than three (3) feet; trees, the limbs of which are at all times kept trimmed of limbs and sucker growth on the trunk to a height of at least eight (8) feet or the limbs of which overhang the public street and are at all times kept trimmed of sucker growth to a height of at least thirteen (13) feet; plant species not planted in the form of hedge which are so planted and trimmed as to leave at all times a clear and unobstructed cross view; fences not exceeding four (4) feet in height provided that the ratio of the solid portion of the fence to the open shall not exceed twenty-five per cent (25%); supporting members appurtenant to permanent buildings existing on the date of adoption of this code of ordinances; official warning signs or signals; to places where the contour of the ground is such that there can be no cross visibility or signs mounted ten (10) feet or more above the ground whose supports do not constitute an obstruction; and noncommercial signs constructed parallel with the base line which in the opinion of the administrative assistant do not obstruct the clear site zone. All

heights herein mentioned shall be measured from the gutter grade at the apex of the clear zone triangle. (1978 Code, § 12-116)

**16-116. Pre-existing violations not excepted.** No obstruction to cross visibility shall be determined to be an exception from the application of this chapter because of its being in existence on the date of adoption of this code of ordinances, unless expressly exempted by the terms of this chapter. (1978 Code, § 12-117)

**16-117. Notice, removal by property owner.** When in the opinion of the administrative assistant an obstruction to visibility exists as prohibited herein, it shall be his duty to give notice in writing to the property owner or owners complained against, providing that said notice shall specify in what manner a traffic hazard has been alleged to exist. Said notice shall direct the removal by the property owner or owners of such structures, trees or other obstructions which constitute said traffic hazard. Said property owner or owners shall be allowed ten (10) days in which to comply with said order, except obstructions of a temporary nature which shall be removed on notice. (1978 Code, § 12-118)

**16-118. Removal by city.** If within ten (10) days after the service of such notice, either by mailing or by personal delivery, the owner or owners of the lot or parcel of land have failed, refused, or neglected to remove such obstructions, then the city shall cause to be removed such obstructions on the lot or pieces of land of said owner, and the cost of such removal shall be assessed and charged against the lot or parcel of ground on which the obstruction was located. (1978 Code, § 12-119)

## CHAPTER 2

### EXCAVATIONS

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Violation and penalty.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city so designated to accept and process permit applications is open for business, and the permit shall be retroactive to the date when the work was begun. (1978 Code, § 12-201, as replaced by Ord. #05-798, Nov. 2005, and Ord. #06-818, Nov. 2006)

**16-202. Applications.** Applications for such permits shall be made to the city administrator or such person as he may designate to receive such applications and shall state the following:

- (1) Location of the intended excavation;
- (2) The size of the intended excavation;
- (3) The purpose of the intended excavation;
- (4) The person, firm, corporation, association, or others doing the actual excavation;
- (5) The name of the person, firm, corporation, association, or others for whom the work is being done;



(6) If applicable, a copy of all required regulatory permits, an approved storm water pollution prevention plan, an erosion control plan, and safety compliance information;

(7) A signed agreement that the applicant will comply with all ordinances and laws relating to the work to be done;

(8) Specific time frames for the completion of the excavation and for the completion of the restoration.

Applications will be rejected or approved if possible within twenty-four (24) hours of its filing and in no case longer than five (5) days from the date of filing. (1978 Code, § 12-202, as replaced by Ord. #05-798, Nov. 2005, and Ord. #06-818, Nov. 2006)

**16-203. Fee.** The fee for such permits shall be one hundred dollars (\$100.00). (1978 Code, § 12-203, as replaced by Ord. #05-798, Nov. 2005, and Ord. #06-818, Nov. 2006)

**16-204. Deposit or bond.** No permit shall be issued to any person for the excavation in or across any street, road, alley, public way, or city right-of-way until such applicant posts a surety in an amount as estimated by the city to be sufficient to ensure faithful performance of all work, payment of all fees, and restoration of all property to its original condition. An applicant may satisfy the surety requirement in any of the following ways:

- (1) By paying cash;
- (2) By posting a cashier's or certified check;
- (3) By posting a surety bond.

In the event the applicant completes all work in an acceptable fashion and returns the work site to its original condition, cash bonds will be refunded and/or the applicant will be released from all obligations under a letter of credit or bond. In the event the applicant fails to restore the work site to its original condition, the city may use the cash or check, or call on the terms of the letter of credit or bond, to complete all work specifications and return the site to its original condition. Upon completion of this work by the city, any remaining balance shall be returned to the applicant. (1978 Code, § 12-204, as replaced by Ord. #05-798, Nov. 2005, and Ord. #06-818, Nov. 2006)

**16-205. Manner of excavating--barricades and lights--temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades, lights, and/or flagman and directional signs shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary walkway shall be provided which shall be safe for travel and convenient for users and meet all ADA and codes requirements. No work shall be performed in or about a manhole

or other confined space without sufficient personnel to insure the safety of the general public, while maintaining adequate vehicular and pedestrian traffic flow, and providing safety warnings in accordance with federal, state, and local requirements. (1978 Code, § 12-205, as replaced by Ord. #05-798, Nov. 2005, and Ord. #06-818, Nov. 2006)

**16-206. Restoration of streets.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, public place, or city right-of-way in the city shall promptly upon the completion of the work for which the excavation or tunnel was made, restore said street, alley, public place, or city right-of-way to its original condition. In case of unreasonable delay in restoring the street, alley, public way, or city right-of-way, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1978 Code, § 12-206, as replaced by Ord. #05-798, Nov. 2005, and Ord. #06-818, Nov. 2006)

**16-207. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than two hundred thousand dollars (\$200,000.00) for each person and five hundred thousand dollars (\$500,000.00) for each accident and one million dollars (\$1,000,000.00) aggregate and for property damages not less than five hundred thousand dollars (\$500,000.00) for any one (1) accident, and a one million dollars (\$1,000,000.00) aggregate. (1978 Code, § 12-207, as replaced by Ord. #05-798, Nov. 2005, and Ord. #06-818, Nov. 2006)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work

until the restoration of the surface of the ground or pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city administrator. (as added by Ord. #05-798, Nov. 2005, and replaced by Ord. #06-818, Nov. 2006)

**16-209. Supervision.** All excavations and other construction must be inspected by either the superintendent of the street department or other such person designated by the city administrator to perform the inspection. Notice must be given to the city administrator at least forty-eight (48) hours before any work commences except in case of emergency. No surety will be released until final restoration has been completed and inspected by the city administrator. (as added by Ord. #05-798, Nov. 2005, and replaced by Ord. #06-818, Nov. 2006)

**16-210. Violation and penalty.** Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #05-798, Nov. 2005, and replaced by Ord. #06-818, Nov. 2006)

## CHAPTER 3

### CURB CUTS

#### SECTION

16-301. Definitions.

16-302. Permit required; application, fees.

16-303. Specifications.

16-304. Building permits requiring curb cuts to be approved by recorder.

16-305. Variances.

**16-301. Definitions.** For the purpose of this chapter, the following definitions shall apply to these words:

(1) "Center." The point of intersection of the property line nearest right-of-way paralleling the streets which intersect.

(2) "Curb raised safety zone." A length of curb equal to eight (8) feet for the protection of pedestrians.

(3) "Curb return." That portion of a curb next to a driveway approach which includes the radius or curvature, or the ramp-type lug on commercial or industrial type pavements and which connects the driveway approach to the street curb.

(4) "Driveway." A place on private property for the operation of automobiles and other vehicles.

(5) "Driveway approach." Any area, construction, or facility between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to something definite on private property, such as a parking area, a driveway, or a door at least seven (7) feet wide intended and used for the entrance of vehicles into a building.

(6) "Outside sidewalk line." A line parallel to the property line lying along the edge of the sidewalk nearest the street roadway or curb or where no sidewalk exists, a line in the street right-of-way parallel to and five (5) feet from the line of the private property.

(7) "Parcel of land." A lot, or lots, or a tract officially registered under one ownership. (1978 Code, § 12-301)

**16-302. Permit required; application, fees.** (1) It is unlawful for any person to break, repair, alter, construct, or extend any curb along a street or alley or any driveway approach without first obtaining a permit therefor from the recorder.

(2) Any person desiring to make any cut or change in any curb or driveway approach shall first submit an application to the recorder, on forms provided by the city, stating the location of the cut or change desired to be made, the type of installation on private property to be served by the driveway approach together with such plans and specifications as may be necessary to

clearly indicate to the recorder the nature of the work to be performed. This application shall be accompanied by a permit fee based on the following table:

<u>Width of driveway approach</u>	<u>Permit fee</u>
12 feet or less	\$2.00
For each additional 10 feet or portion thereof	1.00

(3) The requirements of this section shall be subject to limitations established by the state highway department's control over the state routes. (1978 Code, § 12-302)

**16-303. Specifications.** Any alteration or change or new construction to any curb in the city or of any driveway approach shall conform to the following specifications:

(1) Width and location of driveway approach. No driveway approach shall exceed seventy (70) feet in width as measured along the outside sidewalk line. Where more than one driveway approach on a street front serves a single parcel of land, there shall be at least one curb-raised safety zone at least eight (8) feet in length between driveway approaches. The sides, edges or curbs of driveway approaches shall be at right angles to the street curb.

(2) Driveway approach at street intersections. No portion of a driveway approach shall be constructed beyond property lines extended at intersecting streets.

(3) Distance between curb return of a driveway approach and interior property line. No portion of a curb return shall be less than two (2) feet away from the property line not located at an intersection.

(4) Curb return radius for driveways. The radius of curvature of the curb return shall not exceed the distance between the curb and the outside sidewalk line.

(5) Street structures. No driveway approach shall interfere with city facilities such as street lighting poles, traffic signal standards, signs, catch basins, hydrants, crosswalks, bus-loading zones, utility poles, underground pipe or ducts or other necessary street structures and the recorder is authorized to order and effect the removal or construction of any driveway approach which now conflicts with street structures. The cost of removing or reconstructing or relocating such driveway approaches shall be at the expense of the abutting property owners. (1978 Code, § 12-303)

**16-304. Building permits requiring curb cuts to be approved by recorder.** Any plan submitted to the codes enforcement officer for a building permit, which includes or involves curb or driveway approach problems, shall be referred to the recorder for approval and issuance of permit under this chapter before a building permit is issued. The recorder shall establish the size

of culvert to be inserted under any driveway prior to issuance of the permit. (1978 Code, § 12-304)

**16-305. Variances.** The recorder is hereby authorized to grant in writing variances from the strict application of the provisions of this chapter provided he first determines that the following conditions are present:

(1) The exception or variance desired arises from peculiar physical conditions not ordinarily existing in similar districts in the city or is due to the nature of the business or operation on the abutting property.

(2) That the exception or variance desired is not against the public safety and convenience.

(3) That the granting of the permit for the exception or variance will not adversely affect the rights of adjacent property owners or tenants. (1978 Code, § 12-305)

## CHAPTER 4

### PARADE ORDINANCE OF THE CITY OF SPARTA

#### SECTION

- 16-401. Short title.
- 16-402. Definitions.
- 16-403. Purposes.
- 16-404. Permit.
- 16-405. Application.
- 16-406. Standards for issuance.
- 16-407. Contents of permit.
- 16-408. Duties of permittee.
- 16-409. Revocation of permit.
- 16-410. Notice to city officials.
- 16-411. Violation and penalty.

**16-401. Short title.** This chapter shall be known and may be cited as the "Parade Ordinance of the City of Sparta." (1978 Code, § 12-401)

**16-402. Definitions.** The following words, for the purpose of this chapter, shall have the following meanings:

(1) "Parade" is any meeting, parade, demonstration, exhibition, festival, homecoming, assembly, or other such event to be held in or upon a street, park or other public place in Sparta.

(2) "City" is the City of Sparta.

(3) "Board of mayor and aldermen" is the Board of Mayor and Aldermen of Sparta.

(4) "City administrator" is the City Administrator of Sparta.

(5) "Chief of police" is the Chief of Police in Sparta.

(6) "Parade Permit" is a permit as required by this chapter.

(7) "Persons" is any person, firm, group, partnership, association, corporation, company, or organization of any kind. (1978 Code, § 12-402)

**16-403. Purposes.** (1) The City of Sparta recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs.

(2) The city passes this chapter to regulate the time, place, and manner of parades.

(3) The city passes this chapter in the interest of all its citizens' public safety, health, welfare, comfort, and convenience.

(4) The City of Sparta has limited resources and passes this chapter so that it may properly allocate these resources among its citizens.

(5) The purpose of this chapter is to promote order, safety, and tranquility in the streets of the city.

(6) This chapter is passed to help minimize traffic and business interruptions during parades. (1978 Code, § 12-403)

**16-404. Permit.** (1) No person shall parade unless the issuance of a parade permit has first been approved by the board of mayor and aldermen per procedures specified herein and obtained from the city administrator. Any parade held without the proper permit shall be unlawful.

(2) This chapter shall not apply to funeral possessions. (1978 Code, § 12-404)

**16-405. Application.** (1) Any person seeking issuance of a parade permit shall file an application with the city administrator on forms provided by the city administrator. The city administrator shall place the request for a parade permit on the agenda of the next meeting of the board of mayor and aldermen for action by it in the normal course of business.

(2) The application for a parade permit shall be filed in writing with the city administrator not less than thirty (30) days prior to the contemplated parade or five (5) days prior to any regularly scheduled called meeting of the board of mayor and aldermen. No permit shall be granted sooner than sixty (60) days prior to the contemplated parade. A copy of the application shall be given to the chief of police who shall investigate and make a report to the board of mayor and aldermen.

(3) The application for a parade permit shall set forth the following information:

(a) The name, address, and telephone number of the person seeking to conduct a parade or of the organization and its responsible heads;

(b) The name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;

(c) The date when the parade is to be conducted.

(d) The route to be traveled, the starting point, and the termination point.

(e) The approximate number of persons who, and animals which, will constitute such parade; the type of animals and description of vehicles;

(f) The hours when the parade will begin and end.

(g) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;

(h) The location by streets of any assembly area(s);

(i) The time at which units of the parade will begin to assemble at any assembly area(s);



- (j) The interval of space to be maintained between units of the parade; and
- (k) If the parade is to be held on behalf of any person other than the applicant, the authorization of that person;
- (l) Whether the applicant has been convicted for the violation of the city parade ordinance of the City of Sparta.
- (4) The board of mayor and aldermen shall decide whether to grant the application for a permit. The board of mayor and aldermen may consult with the city administrator and/or chief of police in making their decision.
- (5) The board of mayor and aldermen in cooperation with the chief of police shall have the authority to designate the starting point, route, terminal point, or other time, place and manner restrictions as deemed proper in consideration of minimum traffic interruption, public safety, health, welfare, convenience, peace, or order. (1978 Code, § 12-405)

**16-406. Standards for issuance.** (1) The mayor and board of aldermen shall approve the issuance of a parade permit upon consideration of the application and other information obtained when they find that:

- (a) The conduct of the parade will not unduly interrupt the safe and orderly movement of other traffic contiguous to its route;
- (b) The conduct of the parade will not require the diversion or interruption of essential or emergency municipal services including police, fire, or ambulance services;
- (c) The parade is scheduled to move from its origin to its termination expeditiously and without unreasonable delay;
- (d) The applicant has satisfied the bond requirement; and
- (e) No other permit has been granted for the same day.
- (2) A permit shall be granted to the first person properly applying under the requirements of this chapter.
- (3) Most favorable consideration shall be given to applicants whose parades shall be conducted during daylight hours. Where special circumstances dictate that the parade must occur after daylight hours, the board of mayor and aldermen may make a special exception where circumstances in the judgement of the board warrant such exception.
- (4) No permit shall be granted to any person until the applicant has posted in advance a two hundred fifty (\$250.00) bond to cover the reasonable expenses incurred in the clean up efforts after the parade.
- (5) The city administrator shall notify the applicant within five (5) days after the action of the board of the mayor and aldermen whether the permit has been granted or denied. If the permit has been denied, the city administrator shall set forth the reasons why the board of mayor and aldermen denied the permit.

(6) In computing any period of time set out in this chapter, no Saturdays, Sundays, or holidays are to be computed in the time period. (1978 Code, § 12-406)

**16-407. Contents of permit.** Each parade permit shall state the following:

- (1) Assembly and disassembly time and place;
- (2) Starting time;
- (3) The route and the portions of the streets to be traversed that may be occupied by the parade;
- (4) Minimum speed;
- (5) Maximum speed;
- (6) Interval of space between parade units;
- (7) The maximum length of the parade in miles or fractions thereof;
- (8) Other information as the board of mayor and aldermen in cooperation with the city administrator and/or chief of police shall find necessary for the enforcement of this chapter. (1978 Code, § 12-407)

**16-408. Duties of permittee.** (1) A permittee shall comply with all permit application information, permit directions and conditions, and with all applicable laws and ordinances.

(2) The permittee shall advise parade participants of such permit requirements.

(3) The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the parade. (1978 Code, § 12-408)

**16-409. Revocation of permit.** (1) The board of mayor and aldermen or their designee shall have the authority to revoke a parade permit issued hereunder prior to the parade upon the application of the standards for issuance as herein set forth if it is found that

(a) Applicant materially misrepresented facts or information in the application; and/or

(b) Applicant failed to meet the standards for issuance set forth herein.

(2) The board of mayor and aldermen or their designee shall have the authority to revoke the permit during the parade and disassemble the parade if:

(a) A public emergency arises requiring such revocation to protect the safety of persons or property; or

(b) Disorderly conduct, riots, lawless activity, violence, or other breach of the peace, incited by parade participants occurs. (1978 Code, § 12-409)

**16-410. Notice to city officials.** Immediately upon the issuance of a parade permit, the city administrator shall send a copy of the permit to the following:

- (1) Mayor.
- (2) City attorney.
- (3) Fire chief.
- (4) White County Sheriff.
- (5) Chief of police.
- (6) White County Ambulance service. (1978 Code, § 12-410)

**16-411. Violation and penalty.** (1) It shall be unlawful for any person to parade without first having obtained a permit as required by this chapter.

(2) It shall be unlawful for any person to participate in a parade on the streets of Sparta for which a permit has not been granted.

(3) It shall be unlawful for any person to fail to comply with all directions and conditions of the parade permit.

(4) Any person violating the provisions of any section of this chapter shall, upon conviction, be fined not more than fifty dollars (\$50.00) for each violation. (1978 Code, § 12-411)

## CHAPTER 5

### **SKATEBOARDING AND ROLLER SKATING**

#### **SECTION**

- 16-501. Skateboarding, roller skating, roller blades and similar activities prohibited in certain designated areas.
- 16-502. Definitions.
- 16-503. Designation of private property as no skateboarding or roller skating area.
- 16-504. Designation of public property as no skateboarding or roller skating area.
- 16-505. Posting of signs required, content.
- 16-506. Fees set by resolution.
- 16-507. Penalties.
- 16-508. Exemption from the provisions of this chapter.

**16-501. Skateboarding, roller skating, roller blades and similar activities prohibited in certain designated areas.** (4) It shall be unlawful and subject to punishment in accordance with the provisions of this chapter, for any person utilizing or riding upon any skateboard, roller skates, roller blades or an similar device to ride or move about in or on any public or private property when the same property has been designated by resolution of the board of mayor and aldermen and posted as a no skateboarding, roller skating, roller blading or similar activity area.

(5) No person shall use a skateboard, roller blades, or roller skates or similar device outside of a designated no skateboarding, roller skating, or similar activity area in a manner which creates a nuisance. For the purpose of this chapter "nuisance" is defined as any activity which:

- (a) Threatens injury to persons or property;
- (b) Creates an obstruction or presents a hazard to the free and unrestricted use of public or private property by pedestrians or motorists; or
- (c) Generates loud or unreasonable noise. (as added by Ord. #03-767, May 2003)

**16-502. Definitions.** For the purposes of this chapter, the following words shall have the meanings ascribed:

- (1) Private property shall mean any property held by private interests which is used primarily for business, commercial, office space, religious, multi-family or recreational purposes. This shall also include the parking facilities for these "private property" areas.

(2) Public property shall mean any property owned or maintained by the City of Sparta and any public utility within the geographical boundaries of the City of Sparta.

(3) Roller skates or roller blades shall mean any footwear, or device which may be attached to the foot or footwear, to which wheels are attached, including wheels that are "in line" and where such wheels may be used to aid the wearer in moving or propulsion.

(4) Skateboard shall mean a board of any material which has wheels attached to it and which, is propelled or moved by human, gravitational, or mechanical power, and to which there is not fixed any device or mechanism to turn or control the wheels. (as added by Ord. #03-767, May 2003)

**16-503. Designation of private property as no skateboarding or roller skating area.** (1) If the property is owner-occupied property, the owner shall submit a written application requesting a designation of a no skateboarding, roller skating or similar activity area.

(2) If the property is occupied by tenants of the owner, then the tenants may submit a written application with the exception that for multi-family property, 2/3 of the tenants must sign supporting a designation of no skateboarding or roller skating and the application shall also contain the written consent of the property owner or his or her designated representative. (as added by Ord. #03-767, May 2003)

**16-504. Designation of public property as no skateboarding or roller skating area.** It shall be unlawful for any person to use roller skates, coasters, skateboards, or any similar vehicle or toy article on wheels or a runner on any public street, roadway, alley, sidewalk, or other public building or public place. (as added by Ord. #03-767, May 2003, and replaced by Ord. #05-788, March 2005)

**16-505. Posting of signs required, content.** Prior to the enforcement of the prohibition on skateboarding or roller skating or similar activity, the area so designated shall be posted with signs which provide substantially as follows:

<p>Skateboarding, roller skating or similar activity</p> <p>is prohibited by Title 16, Chapter 5 of the</p> <p>Sparta Municipal Code.</p> <p>Any violation is punishable by a fine of up to</p> <p>\$50.</p>
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Such prohibition shall apply to the property or area so designated once the property or area has been posted with signs in plan view at all vehicular entrances to the property or area or at prominent locations therein. Signs of appropriate size and wording will be provided to property owners upon approval of an application for a particular location to be designated as a no skateboarding, roller skating, or similar activity area. It shall be the responsibility of the property owner or tenant(s) to post signs in appropriate locations to be designated by the appropriate city officials and to maintain all signs thereafter. Signs that become dilapidated, removed or in a condition so as to be unrecognizable by law enforcement officials shall be replaced with signs provided by the City of Sparta at the expense of the property owner. (as added by Ord. #03-767, May 2003)

**16-506. Fees set by resolution.** Authority is granted to establish fees for the administrative costs incurred to receipt and process applications for no skateboarding or roller skating areas, for the cost of signs for posting upon property so designated, and for the cost of replacement signs as may be required. (as added by Ord. #03-767, May 2003)

**16-507. Penalties.** Any violation of this chapter is deemed an infraction, punishable by a fine of up to \$50.00. (as added by Ord. #03-767, May 2003)

**16-508. Exemption from the provisions of this chapter.** Any device designated, intended, and used solely for the transportation of infants, the handicapped, or incapacitated persons, devices designed, intended, and used for the transportation of merchandise to and from the place of purchase and other wheeled devices, when being used for either of these purposes shall be exempt from this chapter. Furthermore the board of mayor and aldermen may, by resolution, suspend the enforcement provisions of this chapter to accommodate special events when so requested by the event organizer. (as added by Ord. #03-767, May 2003)

## **TITLE 17**

### **REFUSE AND TRASH DISPOSAL<sup>1</sup>**

#### **CHAPTER**

1. REFUSE.
2. RESIDENTIAL SOLID WASTE COLLECTION.

#### **CHAPTER 1**

#### **REFUSE**

#### **SECTION**

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. Disposal to be at approved site.
- 17-104. Storage; use of commercial containers.
- 17-105. Specifications as to size, kind and type of can and plastic bags.
- 17-106. Requirements for commercial containers.
- 17-107. Location of containers.
- 17-108. Issuance of building permit; certification of occupancy.
- 17-109. Maintenance of containers.
- 17-110. Removal of defective containers.
- 17-111. Wet refuse to be drained and wrapped.
- 17-112. City collectors not responsible for removal from ground; preparation of lawn clippings, tree trimmings, leaves, packing material, building or construction debris, etc., for collection.
- 17-113. Littering around or damaging garbage containers.
- 17-114. Littering; handbills, etc.
- 17-115. Collection under jurisdiction of sanitation department.
- 17-116. Frequency of collection.
- 17-117. Permit for private collectors required; exception.
- 17-118. Exceptions to permit requirement.
- 17-119. Collection vehicles.
- 17-120. Deposit in streams, storm sewers, etc., prohibited.
- 17-121. Burning.
- 17-122. Authority of sanitation superintendent; methods of collection generally.
- 17-123. Scavenging.
- 17-124. Special conditions.

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

- 17-125. City collectors not to enter private buildings or property to remove waste.
- 17-126. Exemptions.
- 17-127. Violations.
- 17-128. Yard waste, bulk rubbish, and other refuse.

**17-101. Definitions.** As used in this chapter, the following words and phrases shall have the meaning ascribed to them in this section.

(1) "Business" shall include, but not be limited to wholesale, retail, professional or service establishments including, but not limited to, professional offices, restaurants, markets, all schools, hospitals, houses of worship, institutions, research facilities offices and gas stations. This term shall also include anyone who is required to have a business license under the State of Tennessee.

(2) "Refuse collector" shall mean any person, firm, corporation or political subdivision that collects, transport s, or disposes of any refuse within the corporate limits of the city.

(3) "Garbage" shall include all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, from all public and private residences and establishments, but excluding recognizable industrial byproducts.

(4) "Other residents" shall mean persons not residents in the corporate limits of the city but residing in White County, Tennessee.

(5) "Person" shall mean any and all persons, natural or artificial, including any individual, business, firm, entity, or association, and municipal or private corporation organized or existing under the laws of this state or any other state, and any governmental agency or county of this state.

(6) "Refuse" shall include garbage, rubbish, ashes, and all other putrescible, combustible and non-combustible material originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling art, sale of produce, and other similar unwanted materials from all residences and establishments, public and private, but shall not include sewage body wastes, or recognizable industrial byproducts.

(7) "Residence" shall mean a private dwelling serviced by a water meter and includes a unit in a multiple family dwelling, apartment or trailer serviced by a water meter; or an abode of more than two rooms.

(8) "Resident" shall mean the owner or occupant of a residence, dwelling, structure or other premises within the corporate limits of the city.

(9) "Rubbish" shall include all nonputrescible waste material, except ashes, from all public and private residences and establishments. However the term does not include liquid or solid hazardous waste.

(10) "Solid waste" shall mean garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include



solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluent, dissolved materials in irrigation return flows, or other common water pollutants liquid or solid hazardous waste.

(11) "Solid waste disposal" shall mean the process of placing, confining, compacting or covering solid waste except when such solid waste is for reuse, removal, reclamation, or salvage.

(12) "Solid waste disposal system" shall mean the relationship of the coordinated activities of and resources for processing and disposal of solid wastes either in a common geographical area and under the supervision of any person or persons engaging in such activities.

(13) "Solid waste processing" shall mean an operation for the purpose of modifying the characteristics or properties of solid waste to facilitate transportation or disposal of solid wastes including, but not limited to incineration, depositing, separation, grinding, shredding, and volume reduction.

(14) "Sanitation superintendent" shall mean the Sanitation Superintendent of the City of Sparta. (1978 Code, § 8-201)

**17-102. Premises to be kept clean.** All persons within the corporate limits of the city are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in § 17-104 of this chapter. (1978 Code, § 8-202)

**17-103. Disposal to be at approved site.** No person shall deposit or permit to be deposited any garbage or refuse matter which will be offensive, noxious or dangerous to the public health, on his own premises or any premises under his or her control, or deposit such garbage or refuse matter in any back lot, vacant lot, public ground, park, alley, street, flood plain, or areaway, or in any other place within the city, except as is otherwise provided by law. The disposal of refuse in any quantity by any person in any place, public or private, within the city, other than at a site designated by the sanitation superintendent is expressly prohibited. (1978 Code, § 8-203)

**17-104. Storage; use of commercial containers.** Each owner, occupant or responsible person using or occupying any building, house, structure, premises or grounds within the corporate limits of the city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of suitable containers of a type described in § 17-105 of this chapter for the storage of such refuse between intervals of collection. When a commercial container (i.e. dumpster) is found to be the best way of collecting garbage for a commercial customer or an apartment complex, only the commercial customer or the apartment residents shall have the privilege to use that commercial container. Other persons who are found to be using commercial containers will be in violation of this chapter. (1978 Code, § 8-204)

**17-105. Specifications as to size, kind and type of can and plastic bags.** (1) All cans or containers contemplated by this chapter shall be strong, durable, rodent and insect resistant and shall be made of metal or other impervious material. No such can or containers shall be larger than thirty-two (32) gallons in size or capacity. All such cans or containers shall have a securely and tightly-fitting removable top. All such cans or containers larger than ten (10) gallons in size and capacity shall be equipped with two (2) handles, one handle on opposite sides thereof. The combined weight of any manually handled refuse container and its contents shall not exceed fifty (50) pounds. The maximum capacity shall not apply to mechanically handled containers.

(2) All plastic bags contemplated by this chapter shall be of a strength of two (2) mils and have a minimum capacity of twenty (20) gallons and a maximum capacity of thirty-two (32) gallons. All such plastic bags shall be securely tied at top and no more than fifty (50) pounds shall be placed therein.

(3) In no case shall the number of cans or approved plastic bags exceed four (4) per residence or place of business per week. (1978 Code, § 8-205)

**17-106. Requirements for commercial containers.** All automatic loading containers may be required to have a concrete pad with dimensions not less than nine (9) feet by fifteen (15) feet and such pad shall be located so that the refuse collector's truck can pick up the commercial container from the front. This requirement shall not prohibit the owner of any place of business using such devices to store the container at another location when not spotted for pickup. (1978 Code, § 8-206)

**17-107. Location of containers.** Refuse containers required by this chapter shall be placed in a convenient, accessible location for pick-up as directed by the sanitation superintendent. (1978 Code, § 8-207)

**17-108. Issuance of building permit; certification of occupancy.** Before building permits shall be issued for construction of commercial buildings and multiple dwelling units, plans for the adequacy, location and accessibility of solid waste containerization and storage facilities must be approved by the sanitation superintendent. No certificate of occupancy shall be issued by the codes enforcement officer for said premises until the sanitation superintendent's approval of these facilities has been obtained. (1978 Code, § 8-208)

**17-109. Maintenance of containers.** Refuse containers required by this chapter shall be maintained by the owner or lessee in a clean and sanitary manner and shall be thoroughly cleaned by washing or other methods as often as necessary to prevent the breeding of flies and the occurrence of offensive odors. The city's responsibility for its commercial containers shall be limited to painting and repairs as deemed necessary by the sanitation superintendent. (1978 Code, § 8-209)

**17-110. Removal of defective containers.** The sanitation superintendent or his designated agent is hereby authorized to confiscate and remove refuse containers from the premises of residences and business establishments, public and private, when such containers are not suitable for the healthful and sanitary storage of refuse. Such containers shall be removed and disposed of at a place and in a manner designated by the sanitation department only after the owner of such containers has been fully notified of such impending action. (1978 Code, § 8-210)

**17-111. Wet refuse to be drained and wrapped.** Wet refuse must be drained of all liquids and wrapped in paper or other equivalent material prior to placing it in the storage container. (1978 Code, § 8-211)

**17-112. City collectors not responsible for removal from ground; preparation of lawn clippings, tree trimmings, leaves, packing material, building or construction debris, etc., for collection.** In no case will it be the responsibility of the city refuse collectors to shovel or pick up from the ground any accumulations of refuse, including lawn clippings, tree trimmings, leaves, brush, and packing material from areas around approved cans, plastic bags or commercial containers. It shall be the responsibility of the property owner or agent to keep these areas clear of these materials. In no case will the city be responsible for removal of building or construction debris. (1978 Code, § 8-212)

**17-113. Littering around or damaging garbage containers.** It shall be unlawful for any person to scatter litter around a container, to overfill or overflow a container, or to damage any container. Litter means to knowingly and negligently place, throw, pile or overfill a garbage container or dumpster with any matter on public or private property with intent to leave the same. Damage means the denting, burning, or in any way defacing a garbage container or dumpster. (1978 Code, § 8-213)

**17-114. Littering; handbills, etc.** No person shall place on, deposit or leave exposed in any private yard, private driveway, or on any public street or public place in the city contiguous thereto, any handbills, unsolicited newspaper, or unsolicited material, after the owner or occupant of the private property has requested that any such person, corporation, or business refrain from so doing. (1978 Code, § 8-214)

**17-115. Collection under jurisdiction of sanitation department.** The collection of refuse within the city shall be under the jurisdiction of the sanitation department. (1978 Code, § 8-215)

**17-116. Frequency of collection.** The sanitation superintendent shall establish residential and commercial collection routes, days of the week, and hours for collection. All refuse shall be collected at sufficient frequent intervals to prevent the occurrence of nuisances and public health problems. (1978 Code, § 8-216)

**17-117. Permit for private collectors required; exception.** It shall be unlawful for any person or entity to engage in the business of, or offer the services of, garbage or refuse collection without having first obtained a permit from the state division of solid waste management for the operation of said service. (1978 Code, § 8-217)

**17-118. Exceptions to permit requirement.** Nothing in this chapter shall prevent:

(1) any licensed junk dealer, and or organization, profit or non-profit, from collecting refuse recognized as having salvage value, or that can be recycled or otherwise transformed into a usable substances, provided such dealer, organization may collect such salvageable, or recyclable, material only from premises where he has written invitation by the occupant.

(2) any refuse producer or owner from selling or giving salvageable or recyclable materials to licensed junk dealers and/or organization for collection, removal, and disposal. (1978 Code, § 8-218)

**17-119. Collection vehicles.** The collection of refuse within the city shall be by means of vehicles with beds constructed of impervious materials and easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and public thoroughfares. Provisions shall be made to prevent the scattering of refuse over the streets and thoroughfares, by effective coverings or closed truck beds. (1978 Code, § 8-219)

**17-120. Deposit in streams, storm sewers, etc., prohibited.** It shall be unlawful for any person to dump or Deposit refuse in any form into any stream, ditch, storm sewer, or other drain within the city. (1978 Code, § 8-220)

**17-121. Burning.** It shall be unlawful for any person to burn any garbage within the city. No other refuse shall be burned within the city, except in compliance with the applicable sections of this code. (1978 Code, § 8-221)

**17-122. Authority of sanitation superintendent; methods of collection generally.** (1) All collection of refuse within tie city shall be by methods approved by, the sanitation superintendent. Such methods shall include the maximum practical rodent, insect, and nuisance control at the place of collection.

(2) The sanitation superintendent shall have the authority to make such other reasonable rules and regulations concerning individual collection, refuse disposal, and transporting refuse over city streets.

(3) The sanitation superintendent shall also have the authority to determine the type, size, location, and number of commercial containers required to adequately and safely collect and/or store refuse. (1978 Code, § 8-222)

**17-123. Scavenging.** (1) When garbage or rubbish has been set out on a public street or alley for collection, no person except employees of the sanitation department or at duly authorized private hauler, shall remove any garbage or rubbish. The same shall apply to commercial containers provided for commercial collection.

(2) Ownership of garbage and refuse material set out for collection and/or deposited at the municipal disposal grounds shall be the property of the City of Sparta. Scavenging, scattering, collecting, and pilfering the garbage and refuse in any way is prohibited except by written permission from the sanitation superintendent. (1978 Code, § 8-223)

**17-124. Special conditions.** (1) Contagious disease refuse. The removal of wearing apparel, mattresses, other bedding or other refuse from homes or other places where highly infectious or contagious diseases are present shall be performed under the supervision of the sanitation superintendent. Such refuse shall not be placed in containers for regular collection.

(2) Inflammable or explosive refuse. Highly flammable or explosive materials, poisons, acids and caustics shall not be place in containers for regular collection but shall be disposed of at the expense of the owner or possessor as directed by the sanitation superintendent.

(3) Construction refuse. Quantities of refuse materials resulting from the repair, excavation, construction or destruction of buildings, such as, but not limited to, broken concrete, dirt, sand, gravel, trees, tree limbs, wooden waste of any other nonputrescible materials, shall be removed and disposed of by the contractor, owner or person having same in charge by a method satisfactory to the sanitation superintendent.

(4) Industrial wastes. Solid wastes resulting from industrial processes shall be disposed of by the owner or possessor thereof under methods outlined by the sanitation superintendent.

(5) Dead animals. Dead animals shall not be placed in garbage containers for regular collection. Such animals will be removed by special pickup on call to the sanitation department.

(6) Materials not prepared in accordance with this chapter. Unless refuse shall be prepared for collection as provided in this chapter, it will be considered not acceptable for collection. (1978 Code, § 8-224)

**17-125. City collectors not to enter private buildings or property to remove waste.** City refuse collectors are prohibited from entering any privately owned structure, privately owned property, or portion of any such premises or property, for the purpose of removing refuse for collection. (1978 Code, § 8-225)

**17-126. Exemptions.** Any person or entity may exempt himself or herself from the provisions of this chapter by providing the sanitation superintendent with a copy of a current contract with a person or entity properly licensed and permitted to engage in the business of garbage or solid waste collection. (1978 Code, § 8-226)

**17-127. Violations.** Violations of the provisions of this chapter shall be punishable according to the provisions of the general penalty clause of this code. (1978 Code, § 8-227)

**17-128. Yard waste, bulk rubbish, and other refuse.**

(1) **Yard waste/brush collection.** (a) **Placement of brush for collection.** All brush (tree limbs, shrubbery, and hedge trimmings, etc.) must be placed at the edge of a street or serviceable alley easily accessible with city collection equipment. No item of yard waste placed out for disposal shall be placed on top of water/gas meters or valves, piled against utility poles, guy wires, fences or structures, or any item which could be damaged by collection equipment.

(b) **Piling of brush for collection.** All brush shall be neatly stacked in an unscattered manner. Small trimmings should be stacked on top of larger ones with butt ends pointed in the same direction. Brush must be cut to a length not to exceed eight (8) feet, not more than four (4) inches in diameter, stripped of all limbs so as to be easily handled by one man, and stacked in a pile of a size that approximates that of the bed of a pickup truck not to exceed four (4) feet in height and eight (8) feet in length. Brush collections will not be made where it is loosely scattered. A notice shall be given to the resident that collection cannot be made and the reason why it cannot be made.

(c) **Log maintained.** The superintendent of the street department will maintain a log of rubbish pick-up calls. When crews are available for this service, the log book will be checked and collections will be made on a first-called, first-served basis. Collections will be limited to one pickup per location or property owner per thirty (30) day period.

(d) **Separation of refuse.** No items of refuse may be mixed with brush trimmings. Mixing wire, metal, lumber, brick, rock, dirt, or similar items with brush trimmings is prohibited and collection shall be limited to separated items. Mixing leaves and grass clippings with other brush is also prohibited.

(e) Grass clippings and leaves. Except during seasonal leaf collection as outlined in (3) below, all leaves and grass clippings collected by the city shall be placed in plastic bags or other disposable containers.

(2) Refuse collection. Collection of refuse will not be made from lot or land clearing projects including remodeling or alterations of home or businesses or such other private projects or improvements. The city administrator or his designee shall have authority to establish a reasonable self-help program for residents who have unusual amounts of refuse, or unusual circumstances which would prevent hauling or disposal for themselves.

(3) Seasonal leaf collection. Fall leaf collection will begin between October 15 and November 15 depending on climatic conditions and will continue through December. The public Works department will schedule a two (2) weeks period in early spring in order to collect leaves from late shedding trees. The schedule will be announced through the local news media. Following this two (2) weeks period all leaves must be placed in plastic bags for collection.

(4) Removal of tree trimmings resulting from private contractor work. No person, partnership, corporation or association of any kind shall perform or conduct services for profit where trees are cut, trimmed or altered, and where an accumulation of brush, wood, debris or other refuse is the result of such work or service, without being equipped with a truck or other vehicle capable of removing said brush, wood, debris or other refuse to a proper disposal area. Said brush, wood, debris or other refuse shall be removed by the person, partnership, corporation or association causing or creating its accumulation. (1978 Code, § 8-228, as amended by Ord. #03-772, Nov. 2003)

**CHAPTER 2****RESIDENTIAL SOLID WASTE COLLECTION****SECTION**

- 17-201. Purpose.
- 17-202. Solid waste fees.
- 17-203. Residential solid waste.
- 17-204. Commercial solid waste.

**17-201. Purpose.** The purpose of this chapter is to establish policies and procedures for the efficient, sanitary and environmentally compliant collection and disposal of solid waste, brush, leaves, and debris within the City of Sparta and to establish service fees adequate to fund the current and future solid waste operations in the City of Sparta. (as added by Ord. #08-829, April 2008)

**17-202. Solid waste fees.** The following service fees shall apply to all customers as indicated below:

Residential rates inside the city limits:

All residential pickup ..... \$7.00 per month

One (1) ninety-six (96) gallon cart shall be furnished by the City of Sparta at no charge and remains the property of the city. Additional carts may be purchased at the current cost of the cart to the city. The cost for additional carts is a one-time user fee and the carts remain the property of the city. If a resident moves to another location within the city, any additional carts that have been purchased may be taken to the new location provided the public works department is notified of the change of location. Otherwise, carts may not be removed from the assigned location within the city limits. Cart owners relocating outside the city limits shall not remove additional carts from the assigned location within the city. All carts shall be provided by the city and containers from other sources shall not be allowed.

Commercial rates inside the city limits:

Any customer needing more carts or a greater number of cart pickups than listed shall be required to use a dumpster and the charge will be according to the rate scheduled for dumpsters.

1-4 carts, once a week pick-up ..... \$ 5.00 per cart / mo.  
1-4 carts, twice a week pick-up ..... \$10.00 per cart / mo.

6 yard container ..... \$10.00 per pick-up  
Plus a monthly rental fee for the 6 yard container ..... \$15.00 per month



8 yard container ..... \$ 10.00 per pick-up  
 Plus a monthly rental fee for the 8 yard container ..... \$ 20.00 per month

Extra unscheduled pick-ups ..... \$20.00 per pick-up.  
 (as added by Ord. #08-829, April 2008)

**17-203. Residential solid waste.** (1) All residents shall utilize sufficient city issued a ninety-six (96) gallon regulation containers to properly store one (1) week's accumulation of refuse (including garbage and rubbish).

(2) The public works director may require any residential household regularly exceeding ninety-six (96) gallons or two hundred (200) pounds of garbage in a collection period to purchase a second container from the city according to the provisions of § 17-202 herein, or to make other disposal arrangements as approved by the public works director.

(3) The public works director or person so designated by the director is herein authorized to authorize confiscation or removal of unsatisfactory storage containers from the premises of residences and establishments, public and private, when in the discretion of the public works director or his designated representative, such containers do not meet the requirements of this chapter. Such unsatisfactory containers shall be removed and disposed of only after the solid waste division has diligently attempted to notify the owner or owners of such containers.

(4) The solid waste division shall not be obligated to provide service where adequate containers are not provided.

(5) Containers are provided and assigned to residences for the health, safety, convenience and general welfare of the occupants and shall remain the property of the city at the property address where delivered. Containers that are damaged, destroyed, or stolen through neglect, improper use or abuse by the occupant-users shall be replaced by the city at the expense of the occupants or the owner of the residence. Containers which are damaged in the course of normal and reasonable usage or which are damaged or destroyed, through no abuse, neglect, or improper use of the occupant-users or residence owner shall be repaired or replaced by the city at no charge to the occupant-users or residence owners. The containers shall not be damaged, destroyed, defaced, or removed from the premises by any person; markings and identification devices on the containers except as placed or specifically permitted by the city are expressly prohibited and shall be regarded as damage to the containers.

(6) It shall be unlawful for any person, other than the occupant-user, to move, remove, upset, scatter, tamper, use, carry away, deface, mutilate, destroy, damage or interfere with the garbage container, or any refuse left for collection.

(7) It shall be the responsibility of each occupant, on the scheduled day of collection, to place their container on the property side of the curb or street,

or at the edge of the alley where serviceable alleys are available, or in a city approved location for pick-up.

(8) Containers shall be placed in such a location as to be readily accessible for removal by the city. The container shall be placed in such a manner as not to interfere with overhead power lines or tree branches, parked cars, vehicular traffic, or in any other way that would constitute a public hazard or nuisance. Garbage containers shall not be placed, without the express permission of the city, on a public sidewalk, in the street, or in a drainage ditch.

(9) Containers shall be placed for collection no earlier than 7:00 P.M. on the day before collection, and no later than 7:00 A.M. on the scheduled day of collection. Containers must be removed from the curb, street, or alleyway no later than 7:00 P.M. on the day of collection.

(10) Construction waste and yard waste are hereby prohibited from being placed in the ninety-six (96) gallon or other city approved residential garbage collection containers.

(11) City garbage collectors shall not enter houses, stores, garages, or open gates for the collection of garbage or rubbish, nor shall they accept any money or valuable gifts for their services from persons served.

(12) All garbage or refuse must be drained of all liquids and wrapped in plastic or other equivalent material prior to placing it in any storage receptacle. The containers shall be maintained in a clean and sanitary manner and shall be thoroughly cleaned by washing or other method as often as necessary to prevent the breeding of flies and the occurrences of offensive odors.

(13) Garbage and refuse shall not be stored in close proximity to other personal effects which are not desired to be collected, but shall be reasonably separated in order that the collectors can clearly distinguish between what is to be collected and what is not.

(14) Collection of white goods stoves, refrigerators, freezers, window type air conditioners, shall be collected by the collection agency. Refrigerators and freezers, shall have doors removed or secured in accordance with Tennessee Code Annotated, § 39-6-104, and have all contents removed. White goods shall be stored out of public view until collection. The city shall not be responsible for the removal of water heaters, central heat and air systems or other commercially installed appliances.

(15) Excess waste not contained in approved containers may not be placed at the curb with the exception of December 23rd through January 7th of each year. During that two (2) week period, the city will collect excess residential waste for no additional fee. (as added by Ord. #08-829, April 2008)

**17-204. Commercial solid waste.** (1) Every commercial establishment shall place all garbage in a city approved container, and shall maintain the container and the surrounding area in a clean, neat and sanitary condition. All bulk containers shall be cleaned and disinfected on a regular basis.

(2) Any establishment that furnishes and maintains a bulk container, or containers suitable for handling by city equipment will be serviced by the city as required provided that such container shall be of sufficient size and number. Bulk containers shall at all times be kept in a place easily accessible to city equipment as approved by the solid waste director. At no time shall objects, obstructions, or vehicles hinder in any way whatsoever the servicing of said containers.

(3) All bulk containers to be serviced by city equipment shall be front-end loading enclosed, metal containers. Before any such container shall be serviced by the city, it shall be specifically approved by the solid waste director as to capacity, size, type and location. All containers shall be either six (6) or eight (8) cubic yards capacity.

(4) Bulk containers shall be placed on approved service pads to be constructed of six (6) inch thick concrete reinforced with steel and of a size of no less than twelve (12) by twelve (12) feet square or as specified by the public works director. Screening shall be permitted on three (3) sides only. A gate must be placed on the dumpster screening. Service of containers in gated enclosures may be provided by the solid waste division if the gates meet all specifications set by the department.

(5) Businesses using regulation ninety-six (96) gallon cans for collection shall provide sufficient containers to properly store one (1) week's accumulation of refuse. All businesses requiring any combination of four (4) or more regulation ninety-six (96) gallon containers, for weekly service shall be required to acquire regulation bulk containers for service.

(6) Nothing in this section shall prohibit commercial establishments or private residents from removing their own solid waste to an approved disposal site provided that solid waste service fees shall remain applicable. (as added by Ord. #08-829, April 2008)

## **TITLE 18**

### **WATER AND SEWERS<sup>1</sup>**

#### **CHAPTER**

1. SEWAGE USE.
2. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
3. WATER AND SEWER RATES, SERVICE POLICIES AND FEES.
4. SEWER SERVICE OUTSIDE CORPORATE LIMITS.

#### **CHAPTER 1**

#### **SEWAGE USE<sup>2</sup>**

#### **SECTION**

- 18-101. General provisions.
- 18-102. Connection to public sewers.
- 18-103. Septic tank effluent pump or grinder pump wastewater systems.
- 18-104. Private domestic wastewater disposal.
- 18-105. Regulation of holding tank waste disposal.
- 18-106. Applications for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-107. Discharge regulations.
- 18-108. Industrial user monitoring, inspection reports, records access, and safety.
- 18-109. Enforcement.
- 18-110. Affirmative defenses.
- 18-111. Fees and billing.
- 18-112. Validity.
- 18-113. Extension of sanitary sewer service.

**18-101. General provisions.** (1) Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Sparta, Tennessee,

- (a) To protect the public health;

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Electricity, waterworks, and sewerage: title 19, chapter 1.

Refuse disposal: title 17.

<sup>2</sup>Municipal code reference

Plumbing code: title 12, chapter 3.

(b) To provide problem free wastewater collection and treatment service;

(c) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the city's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;

(d) To provide for full and equitable distribution of the cost of the wastewater treatment system;

(e) To enable the City of Sparta to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal, state laws and regulations;

(f) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Sparta must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the City of Sparta, Tennessee and to persons outside the city who are, by contract or agreement with the city users of the municipal wastewater treatment system. Except as otherwise provided herein, the City Administrator of the City of Sparta shall administer, implement, and enforce the provisions of this chapter.

(2) Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(a) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. 1251, et seq.

(b) "Approval authority." The division of water pollution control director or his/her representative(s).

(c) "Authorized or duly authorized representative of the user."

(i) If the user is a corporation:

(A) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure 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.

(ii) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(iii) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(iv) The individuals described in paragraphs (i) through (iii), 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 of Sparta.

(d) "Best Management Practices" or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-107 of this ordinance. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(e) "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 centigrade (20°) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(f) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(g) "City." The City of Sparta, Tennessee or the Board of Mayor and Aldermen, City of Sparta, Tennessee or their representative.

(h) "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.

(i) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(j) "Control authority." The City of Sparta.

(k) "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.

(l) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(m) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only.

(n) "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.

(o) "Garbage." Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(p) "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. An individual sample collected over a period of time not to exceed fifteen (15) minutes.

(q) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(r) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(s) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(t) "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).

(u) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use

or disposal; or exceeds the design capacity of the treatment works or the collection system.

(v) "Manager." The person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this section, or other representatives authorized by the city. For the purposes of this chapter, "Manager" shall be used to designate the City Administrator, City of Sparta.

(w) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR Part 403.5.

(x) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Federal Water Pollution Control Act as amended.

(y) "New source." (i) The term 'new source' means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(A) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(ii) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs 18-101(y)(i)(B) or



18-101(y)(i)(C) of this section, but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(A) Begun, or caused to begin as part of a continuous onsite construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(z) "Pass through." A discharge which exits the POTW into waters of the United States 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 POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

(aa) "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.

(bb) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(cc) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(dd) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(ee) "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 prior to, or in lieu of, discharging

or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by § 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with § 403.6(e).

(ff) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(gg) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, which is owned by a state or 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.

(hh) "POTW treatment plant." That portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(ii) "Shall" is mandatory; "may" is permissive.

(jj) "Significant industrial user." The City of Sparta defines a significant industrial user as:

(i) An industrial user subject to categorical pretreatment standards; or

(ii) An industrial user that:

(A) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(B) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(C) Is designated as such by the City of Sparta on the basis that it has a reasonable potential for adversely

affecting the POTW's operation or for violating any pretreatment standard or requirement.

(iii) Upon a finding that an industrial user meeting the criteria in paragraph (ii) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

(kk) "Significant noncompliance." Any significant industrial user (or any industrial user which violates any section of the City of Sparta's SUO or applicable discharge permit) is in significant noncompliance, if its violation meets one or more of the following criteria as listed in (40 CFR 403.8(f)(2)(viii):

(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 the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(iii) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, intelligence 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 POTW's exercise of its emergency authority under paragraph 40 CFR 403.8(f)(1)(vi)(B) of this section 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 the 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 POTW determines will adversely affect the operation or implementation of the local pretreatment program.

(ll) "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 intelligence or passthrough, or in any other way violate the POTW's regulations, local limits or permit conditions.

(mm) "State." The State of Tennessee.

(nn) "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.

(oo) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(pp) "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 manager.

(qq) "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.

(rr) "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.

(ss) "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.

(tt) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(uu) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(vv) "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. (1978 Code, § 8-301, as replaced by Ord. #99-720, Nov. 1999, as amended by Ord. #06-817, Nov. 2007, and replaced by Ord. #08-830, Aug. 2008)

**18-102. Connection to public sewers.** (1) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the City of Sparta any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter, and the requirements stipulated in § 18-102(e) of this document have been met.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-102(1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred feet (500') of the property line over public access.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(f) Where a public sanitary sewer is not available under the provisions of § 18-102(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-103 of this chapter.

(2) Physical connection public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city as required by § 18-106 of this chapter. The connection application shall be supplemented by any plans, specifications

or other information considered pertinent in the judgment of the city. A connection fee shall be paid to the city at the time the application is filed.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the 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, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(d) Old building sewers may be used in connection with new buildings only when they are found, upon examination and testing by the manager to meet all requirements of this chapter. All others may be sealed to the satisfaction of the manager.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows:

(A) Conventional sewer system -- four inches (4").

(B) Small diameter gravity sewer -- two inches (2").

(C) Septic tank effluent pump -- one and one quarter inches (1-1/4").

Where the septic tanks become an integral part of the collection and treatment system, the minimum size influent line shall be four inches (4") and the minimum size of septic tank shall be one thousand (1,000) gallons. Septic tanks shall be constructed of polyethylene and protected from flotation. The city shall have the right, privilege, and authority to locate, inspect, operate, and maintain septic tanks which are an integral part of the collection and treatment system.

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Four inch (4") building sewers shall be laid on a grade greater than one-eighth inch (1/8") per foot. Two-inch (2") sewers shall be laid on a grade greater than three-eighths inch (3/8") per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of:

(A) Neoprene compression joints of approved type, sewers and SDR-21 for pressure sewers with solvent welded or rubber compression joints;

(B) Cast iron soil pipe with compressed joints;

(C) Polyvinyl chloride pipe SDR-21 for gravity sewers and SDR-21 for pressure sewers with solvent welded or rubber compression joints;

(D) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(E) Such other materials of equal or superior quality as may be approved by the manager. Under no circumstances will cement mortar joints be acceptable.

(vi) A cleanout shall be located five feet (5') outside of the building, one (1) as it taps on to the utility lateral and one (1) at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of four inch (4") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A sweeping "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4") on a four inch (4") pipe. A cleanout shall be placed at the property line of the industry or the property owner, where it connects to the public sewer system. The City of Sparta shall maintain the sewer from the property line to the public sewer. From the property line cleanout to the building, shall be the owner's responsibility.

(vii) Connections of building sewers to the public sewer system shall be 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 sweeping wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the manager. All such connections shall be made gastight and watertight.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth inch (1/8") per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall

be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a pump 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 of the ASTM Water Environment Federation Manual of Practice FD-5. Any deviation from the prescribed procedures and materials must be approved by the manager before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) All cafes, restaurants, motels, hotels, or other commercial food preparation establishments shall be subject to the requirements for fats, oils and grease traps and interceptors as defined in § 18-107(3) of this document, and in the City of Sparta Fats, Oils, and Grease (FOG) Management Policy.

(3) Inspection of connections. (a) Before the underground portion is covered, the sewer connection and all building sewers from the building to the public sewer main line shall be inspected by the city or its authorized representative.

(b) The applicant for discharge shall notify the manager when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the manager or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the city to meet specifications of or the requirements of this chapter. (1978 Code, § 8-302, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)



**18-103. 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 of Sparta.

(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 manager.

(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 and an easement. 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 manager.

(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 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 water softener backwash water;

(v) Discharge of pet hair, lint, or home vacuum water;

(vi) Discharge of fats, grease, and oil.

(6) **Tank cleaning.** Solids removal from the septic tank shall be the responsibility of the city. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.

(7) **Additional charges.** The city shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for identical problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (As added by Ord. #99-720, Nov. 1999, and replaced by Ord. #08-830, Aug. 2008)

**18-104. Private domestic wastewater disposal.**

(1) Availability. (a) Where a public sanitary sewer is not available under the provisions of § 18-102(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to one-eighth inch (1/8") per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-102, the owner shall provide a private sewage pumping station as provided in § 18102(2)(e)(viii).

(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) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the manager stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the White County Health Department.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the White County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the White County Health Department.

(c) A private domestic sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the White County Health Department. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the White County Health Department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the White County Health Department.

(d) 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 White County Health Department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(e) The owner shall operate and maintain the private domestic wastewater disposal facilities in a sanitary manner at all times, at no expense to the city. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the

public sewer within sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the city's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the White County Health Department. (1978 Code, § 8-303, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)

**18-105. Regulation of holding tank waste disposal.** (1) Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the manager 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 manager when the conditions of this chapter have been met and providing the manager is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(2) Fees. For each permit issued under the provisions of this chapter an annual service charge (to be paid as specified in § 18-111) shall be paid to the city. Any such permit granted shall be for one (1) fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The city shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the city. 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 Sparta. (1978 Code, § 8-304, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)

**18-106. Applications for domestic wastewater discharge and industrial wastewater discharge permits.** (1) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the manager for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the city sewer shall not be made until the application is received and approved by the manager, the building sewer is installed in accordance with § 18-102 of this chapter and an inspection has been performed by the city or its representative.

The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the 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, except that conditional waivers for additional services may be granted by the manager for interim periods if compliance may be assured within a reasonable period of time.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall acquire a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the manager, an application in the form prescribed by the city accompanied by the appropriate fee. Existing users shall apply for a wastewater discharge permit within one hundred eighty (180) days after the effective date of this chapter, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC number of applicant; wastewater volume; wastewater constituents and characteristic, discharge variations - daily, monthly, seasonal and thirty (30) minute peaks; a description of all toxic materials handled on the premises, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the manager.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the manager for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or other operation 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 § 18-107 of 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 city will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the manager 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 city, the city shall deny the application and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits must be enforceable and contain, at a minimum, the following conditions:

(A) Statement of duration (in no case more than five (5) years);

(B) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

(C) Effluent limits based on applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local law;

(D) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in part 403, categorical pretreatment standards, local limits, and state and local law;

(E) Statement of applicable civil and criminal penalties for violation of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(F) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

(G) Requirements for notification of slug discharges.

(H) Effluent limits, including best management practices, based on applicable pretreatment standards.

(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 inspections and sampling facilities;

(C) Compliance schedules;

(D) Effluent mass loading restrictions;

(E) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modifications. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the manager within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-106(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing wastewater discharge permit. The City of Sparta shall provide a copy of the existing permit to the new owner within thirty (30) days.

(g) Revocation of permit. Any permit issued under the provisions of the chapter is subject to be modified suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(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, questionnaire, permit application, permits and

monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the manager 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 city as confidential shall not be transmitted to any governmental agency or to the general public by the manager until and unless prior and adequate notification is given to the user. (1978 Code, § 8-305, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)

**18-107. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW or any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(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 POTW or to the operation of the POTW. At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the lower explosive limit (LEL) of the meter. Prohibited are other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system. Any wastestream that has a flashpoint of less than one hundred eighty degrees Fahrenheit (180° F) or sixty degrees Centigrade (60° C) using the test methods specified in 40 CFR part 261.21.

(b) 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 but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch



manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 5.0 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, causing acute worker health and safety problems, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance, hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with 40 CFR part 503 or 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.

(g) Any substances which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(h) 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.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature which exceeds forty degrees Centigrade (40° C) (one hundred four degrees Fahrenheit (104° F)) at its introduction to the POTW.

(j) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(l) Any wastewaters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the manager in compliance with applicable state or federal regulations.

(m) Any wastewater which causes a hazard to human life or creates a public nuisance.

(n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l monthly average or (300) mg/l daily maximum concentration or containing substances which may solidify or become viscous at temperature between thirty-two or one hundred fifty degrees Fahrenheit (32°-150° F) (zero and sixty-five degrees Centigrade (0° and 65° C)).

(o) 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 manager and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the manager and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(p) Any water or wastes containing petroleum oil, nonbiodegradable cutting oil, or products of mineral origin in amounts which will cause pass through or interference.

(q) Any trucked or hauled pollutants except at discharge points designated by the POTW.

(r) Any wastes prohibited by the city's FOG management policy.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the standards set by the city unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

(3) Fats, oils and grease traps and interceptors. (a) All prohibitions and requirements related to the discharge, treatment, and control of FOG waste can be found in the City of Sparta FOG Management Policy and the Sparta Food Service Establishment Enforcement Response Guide.

(b) 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 manager 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.

(c) **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.

(d) **Control equipment.** The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Standard Plumbing Code and Tennessee Department of Environment and Conservation engineering standards. 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, 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, or the FOG management policy.

The city retains the right to inspect and approve installation of control equipment.

(e) The city may use industrial wastewater discharge permits under § 18-106 to regulate the discharge of fat, oil and grease.

(4) **Protection of treatment plant influent.** The city shall monitor the treatment works influent for each parameter in the following table. (Table A - Plant Protection Parameters). Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. No one shall discharge at a rate to cause the influent to exceed these established limits. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the city 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 pre-treatment levels for these parameters. The city shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Table A-Plant Protection Parameters

<u>Parameter Daily Maximum (mg/l)</u>	<u>Industry</u>
Copper	1.550
Chromium	1.150
Nickel	0.800
Cadmium	0.093
Lead	0.210
Mercury	0.003
Silver	0.070
Zinc	3.000
Cyanide	0.850
Toluene	0.750
Benzene	0.040
1,1,1 Trichloroethane	0.750
Ethylbenzene	0.125
Carbon tetrachloride	0.095
Chloroform	0.750
Tetracloroethylene	0.430
Trichloroethylene	0.300
1,2 trans dichloroethylene	0.030
Methylene chloride	0.300
Total phenols	1.100
Naphthalene	0.020
Total phthalates	0.350
BOD	800
TSS	800
pH	5.0-9.5 (units)
Oil and grease	300

(5) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The city shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.

(6) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the manager from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(7) Special agreements. Nothing in this section shall be construed so as to prevent any special agreement or arrangement between the city and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the city and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit. No special agreement or arrangement may be made without documentation by the industry of the use of good management practice in the reduction of wastewater volume and strength.

(8) Exceptions to discharge criteria. (a) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in § 18-106(1) and (2) of this chapter. Exceptions can be granted according to the following guidelines:

(i) The city shall allow applications for temporary exceptions at any time. However, the city shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the city.

(ii) All applications for an exception shall be in writing and shall contain sufficient information for evaluation of each of

the factors to be considered by the city in its review of the application.

(b) Conditions. All exceptions granted under this paragraph shall be temporary and subject to revocation at any time by the city upon reasonable notice. The user requesting the exception must demonstrate to the city that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically infeasible and the discharge, if excepted, will not:

(i) Interfere with the normal collection and operation of the wastewater treatment system;

(ii) Limit the sludge management alternatives available and increase the cost of providing adequate sludge management; and

(iii) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit. The user must show that the exception, if granted, will not cause the discharger to violate its enforce federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment standards. A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for the concentration of the pollutant for which the variance has been granted in excess of the allowable concentration set by the city, based on the average daily flow of the user.

(c) Review of application by the city. All applications for an exception shall be reviewed by the city. If the application does not contain sufficient information for complete evaluation, the city administrator shall so notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the manager to correct such deficiencies. This thirty (30) day period may be extended by the city upon application and for just cause shown. Upon receipt of a complete application, the city shall evaluate same within thirty (30) days and shall submit his recommendations to the city at its next regularly scheduled meeting.

(d) Review of application by the city. The city shall review and evaluate all applications and shall take into account the following factors:

(i) Whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in § 18-106, and grant an exception only if

such exception may be granted within the limitations of applicable federal requirements.

(ii) Whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations.

(iii) Whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works, taking into consideration the concentration of said pollutant in the treatment works influent and the design capability of the treatment works.

(iv) The cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive costs alone shall not be the basis for granting an exception.

(v) The age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of the wastewater discharge.

(vi) The process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge.

(vii) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.

(9) Accidental discharge. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this chapter shall be subject (on a case by case basis) to a special permit condition or requirement for the construction of facilities, and the establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to the manager before the facility is constructed.

(10) Slug and slug control. The City of Sparta shall evaluate whether each such significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional significant industrial users must be evaluated within one (1) year of being designated a significant industrial user. For purposes of this subsection, a slug discharge is 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 POTW's regulations, local limits or permit conditions. The results of such activities shall be available to the approval authority upon request. Significant industrial users are required to notify the POTW immediately of any changes at its facility affecting potential for a slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR part 403.5(b) with procedures for follow-up written notification within five (5) days;
- (d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

(11) The City of Sparta shall investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required under 40 CFR part 403.12, or indicated by analysis, inspection, and surveillance activities described in paragraph 40 CFR 403.8 (f)(2)(v) of this section. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

(12) The City of Sparta shall comply with the public participation requirements of 40 CFR part 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a significant industrial user (or any industrial user which violates



paragraphs (c), (d), or (h) of this subsection) is in significant noncompliance if its violation meets one or more of the following criteria:

(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 the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW 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 human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within forty-five (45) days after the 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 POTW determines will adversely affect the operation or implementation of the local pretreatment program. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately (in no case longer than twenty-four (24) hours) notify the manager (or his designated

representative) by telephone to enable countermeasures to be taken by the manager to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrences.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law, or the city's approved enforcement response plan.

(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. (1978 Code, § 8-306, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)

**18-108. Industrial user monitoring, inspection reports, records access, and safety.** (1) **Monitoring facilities.** The installation of a monitoring facility shall be required for all industrial users having wastes which receive pretreatment, are otherwise altered or regulated before discharge, or are unusually strong and hereby subject to a surcharge, or otherwise deemed necessary by the city. The monitoring facility shall be a manhole or other suitable facility approved by the city.

When, in the judgment of the city, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the manager 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 manager, 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 city 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.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the manager's requirements and all applicable local agency construction standards and specifications. Construction must be completed within one hundred eighty (180) days following written notification unless an extension is granted by the manager.

(2) Inspection and sampling. The city shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The 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 shall perform repeat sampling and analysis for samples taken by the control authority (City of Sparta) in accordance with CFR [403.12(g)(2) and 1200-4-14.12(7)(b)] 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. All sampling will by the City of Sparta or the industrial user will be done in accordance with 40 CFR part 136.

(3) Compliance date report. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment requirements. The report shall state whether the applicable pretreatment requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the city during the months of

April and October, unless required more frequently in the pretreatment standard or by the manager, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements. This report shall include a record of measured or estimated average and maximum daily flows. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the manager may agree to alter the months during which the above reports are to be submitted.

(b) The city may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment requirements in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the city of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR 136, part and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the manager, Director of the Division of Water Pollution Control, Tennessee Department of Environment and Conservation or the Environmental Protection Agency, or any of their duly authorized representatives. This period of retention shall be extended during the course of

any unresolved litigation regarding the industrial user or when requested by the manager, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the manager 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) Self-monitoring. Significant industrial users shall be required to self-monitor their effluent discharge to the POTW. The industrial user must meet the following criteria:

(a) All SIUs shall resample, within 30 days after self monitoring violations as required by 40 CFR part 403.12(g)(2).

(b) Sampling shall be representative of the industry's discharge as required by 40 CFR part 403.12(g)(3).

(c) SIUs shall notify The City of Sparta immediately if there is a discharge of hazardous waste as required by 40 CFR part 403.12(p).

(d) SIU reports must be certified by a duly authorized official as required by 40 CFR part 403.12(1), and § 18-101(2)(c) of this document.

(e) All SIUs shall submit all monitoring data to the City of Sparta as required by 40 CFR part 403.12(g)(6).

(f) Parameters that shall be sampled are listed in the SIUs individual permit. All of the samples shall be taken according to 40 CFR part 403.12(g)(3). All samples must be sampled either by composite or grab samples as specified by 40 CFR part 403.12(g)(3) or in the industries permit. All industries must self monitor a minimum of twice a year. In addition the City of Sparta shall perform compliance monitoring at least once every twelve (12) months in accordance with Tennessee Rule 1200-4-14.

(g) 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 control authority may authorize a lower minimum as required by 40 CFR part 403.12(g)(4).

(h) The City of Sparta shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. The City of Sparta shall also have authority to seek or assess civil or criminal penalties in at least the amount of one thousand dollars (\$1,000.00) a day for each violation by industrial users of

pretreatment standards and requirements. (1978 Code, § 8-307, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)

**18-109. Enforcement.** (1) Enforcement shall be administered in accordance with the city's Enforcement Response Plan (ERP). Any fines will be levied in accordance with WQC Act, § 69-3-125.

(1) Notice of violation. Whenever the manager finds that any industrial user has violated or is violating this chapter, or a wastewater permit or order issued there under, the manager may serve upon said user written notice of the violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the manager. 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.

(2) Administrative order. When the manager finds that an industrial user has violated or continues to violate the ordinance or a permit or order issued there under, the manager may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated.

Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

(3) Show cause hearing. When the manager finds that an industrial user has violated this chapter or permit, he may order any industrial user which causes or contributes to a violation of this chapter or wastewater permit or order issued hereunder, to show cause before the mayor and city board 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, and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

(4) Administrative fines. Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined not less than fifty dollars (\$50.00) and not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or be continued shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the city shall have such other collection

remedies as it has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the city to reconsider the fine within ten (10) days of being notified of the fine. Where the manager believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user.

(5) Emergency suspensions. When the manager finds that an individual user has violated this chapter or permit, the city may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate this contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer connection to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in § 18-108(6) are initiated against the user.

An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the city prior to the date service is reestablished.

(6) Termination of permit. Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the City of Sparta. Any user who is found to be guilty of any of the following conditions resulting in violation of this chapter or of a wastewater discharge permit or order, or any applicable state or federal law, is subject to permit termination:

- (a) Violation of 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 constituents and characteristics; and
- (d) Refusal of reasonable access to user's premises for the purpose of inspection, monitoring, or sampling. Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under § 18-109(3) of this chapter why the proposed action should not be taken.

(7) Judicial remedies. If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, the manager

through the city attorney may commence an action for appropriate legal and/or equitable relief in the Chancery Court of White County.

(8) Civil penalties. Any industrial user who has violated or continues to violate this chapter or any order or permit hereunder shall be liable to the city for a civil penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the city may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

The city shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

(9) Criminal prosecution. (a) Violations-generally. Any industrial user who willfully or negligently violates any provision of this chapter or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year, or both. In the event of a second conviction, the user shall be punishable by a fine not to exceed three thousand dollars (\$3,000.00) per violation per day, or imprisonment for not more than three (3) years, or both.

(b) Falsifying information. Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year, or both.

(10) Supplemental enforcement remedies. (a) Annual publication of significant violations. When the superintendent finds that an industrial user has violated this chapter or permit, the manager shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in significant noncompliance, as defined in § 18-101(2)(kk) of this document, with any provisions of this chapter or any permit or order issued hereunder during the period since the previous publication.

(b) Water supply severance. Whenever an industrial user has violated or continues to violate the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be



severed and service will only recommence (at the user's expense) after it has satisfactorily demonstrated its ability to comply.

(11) FOG Enforcement. Any Food Service Establishments (FSEs) permitted, or subject to permitting, in accordance with the established FOG management policy is subject to the enforcement mechanisms outlined in the city's FSE Enforcement Response Guide. No FSE permitted under the FOG program is excluded from the conditions and requirements stipulated by this SUO. Nor are they exempt from additional enforcement as described in the city's ERP. (1978 Code, § 8-308, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)

**18-110. Affirmative defenses.** (1) Treatment upsets. Any industrial user which experiences an upset in operations that places it in a temporary state of noncompliance which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation shall inform the manager thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five (5) days.

The report shall contain:

(a) A description of the upset, its cause(s), and impact on the discharger's compliance status.

(b) The duration of noncompliance, including exact dates and times of noncompliance and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.

(c) All steps taken or planned to reduce, eliminate, and prevent reoccurrence of such an upset. An industrial user which complies with the notification provisions of this paragraph in a timely manner shall have an affirmative defense to any enforcement action brought by the manager for any noncompliance with this chapter, or an order or permit issued hereunder which arises out of violations attributable to, and alleged to have occurred, during the period of the documented and verified upset.

(2) Treatment bypasses. A bypass of the treatment system is prohibited unless all of the following conditions are met:

(a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(b) There was no feasible alternative to the bypass including the use of auxiliary treatment or retention of the wastewater.

(c) The industrial user properly notified the manager as described below. Industrial users must provide immediate notice to the manager upon discovery of an unanticipated bypass. If necessary, the manager may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass and the steps being taken to prevent its reoccurrence.

An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to insure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the manager at least ten (10) days in advance. The manager may only approve the anticipated bypass if the circumstances satisfy those set forth above. (1978 Code, § 8-309, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)

**18-111. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from user's of the city's wastewater treatment system including costs of operation, maintenance, administration, debt service costs, capital improvements, and depreciation.

(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) Fees for applications for discharge;
- (b) Inspection fee and tapping fee;
- (c) Sewer charges;
- (d) Surcharge fees;
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring; and
- (g) FSE FOG permit, monitoring, and inspection fees.
- (h) Other fees as the city may deem necessary to carry out the

requirements of this chapter.

(3) Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-106 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 Sparta Electric and Water Systems at the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The inspection fee and tapping fee shall be set by the board of mayor and aldermen.

(5) Sewer charge. (a) Determination of costs: The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs (including billing and accounting costs), operation and maintenance costs of the wastewater collection and treatment systems (including replacement), and debt service costs. The sewer charge shall have two (2) components, namely: user charge and debt service costs.

(b) User charge. (i) The user charge shall reflect the costs of administration, and operation and maintenance (including replacement) of the public sewerage facilities.

(ii) Each user shall pay its proportionate share of administration, and operation and maintenance (including replacement) costs based on volume of flow.

(iii) The manager of the sewerage facilities shall review not less often than every two (2) years the sewage contributions of users, the total costs of administration and operation and maintenance (including replacement) of the sewerage facilities and the user charge system. The manager shall recommend to the board of mayor and aldermen the user charge (if necessary) to accomplish the following:

(A) Maintain the proportionate distribution of administration and operation and maintain costs (including replacement) among users as provided herein; and

(B) Generate sufficient revenue to pay the total administration and operation and maintenance costs (including replacement) of the sewerage facilities.

(iv) All flow to the sewerage facilities not directly attributable to the users (i.e., infiltration/inflow) shall be distributed among all users of the sewerage facilities based upon the volume of flow of the users.

(v) Each user shall be notified at least annually (in conjunction with a regular bill) of the rate and that portion of the sewer user charge which is attributable to administration, and operation and maintenance of the sewerage facilities.

(c) Debt service costs. The sewer charge shall also contain a component to reflect the costs of debt service incurred in conjunction with capital expenditures that have previously been made or may be made in the future to improve, upgrade, or extend the public sewerage facilities.

(d) Adjustments. The volume of water purchased which is used in the calculation of sewer charge may be adjusted by the manager if a user purchases a significant volume of water for a consumptive use and does not discharge it to the public sewers (i.e., filling swimming pools, industrial heating and humidifying equipment, etc.). The user may be responsible for documenting the quantity of waste discharged to the public sewer.

(6) Surcharge fee. (a) Should a user of the wastewater system be determined by the manager to be discharging wastewater into the system with an average biochemical oxygen demand (BOD) content in excess of three hundred (300) mg/l by weight, and/or an average suspended solids (SS) content in excess of three hundred (300) mg/l by weight, the users shall pay a surcharge based upon the excess strength of their wastes.

(b) The costs of treatment for each pound of BOD and SS removed by the sewerage facilities shall be reviewed at the end of each fiscal year and appropriate surcharge rates applied to the sewage billing. These rates shall be in effect until the next annual rate review.

(c) When either or both the biochemical oxygen demand or the suspended solids quantities discharged into the treatment works is in excess of those described in § 18-111 (6)(a) above, the following formula shall be used to compute the appropriate surcharge fees with the total applied to the monthly bill of affected users:

$$[A(C-300)+B(D-300)]\frac{8.34}{1000}\times E \times F = \text{Surcharge Payment}(\$/\text{mo.})$$

Where:

A = Surcharge rate for BOD in \$/lb = \$0.25

B = Surcharge rate for SS in \$/lb = \$0.25

C = Industrial user's BOD concentration in mg/l

D = Industrial user's SS concentration in mg/l

E = Industrial user's flow to sewerage facilities in 1,000 gallons/day

F = Number of days in month

(d) No reduction in sewage service charges, fees, or taxes shall be permitted because of the fact that certain wastes discharged to the sewerage facilities contain less than three hundred (300) mg/l of BOD and three hundred (300) mg/l of SS.

(e) If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the discharger of such parameters in proportion to the amount of discharge.

(7) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge permit in accordance with § 18-106 of this chapter.

(8) 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.

(9) Billing. The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates specified by the city, subject to net and gross rates. (1978 Code, § 8-310, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)

**18-112. Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Sparta, Tennessee. (1978 Code, § 8-311, as replaced by Ord. #99-720, Nov. 1999, and Ord. #08-830, Aug. 2008)

**18-113. Extension of sanitary sewer service.** (1) (a) The City of Sparta may of its own initiative, or when requested by property owners within an urban growth area, extend sanitary sewer service subsequent to annexation. In no event shall the city extend sewer service into an area that has not first been annexed into the City of Sparta.

(b) When the city sewer service is sought for property outside an urban growth area, extension of sanitary sewer service may be approved only after the urban growth area boundary has been amended and the property annexed into the city.

(c) Subject to item (b) above, any extension of sanitary sewer service shall be in compliance with a utility agreement with the developer to include:

(i) The city shall be provided an accurate legal description and the names of all owners and occupants of the property;

(ii) The city shall be provided a binding commitment by the owners of the property that all lines and facilities for such service will be completed to city standards in accordance with all city ordinances and regulations;

(iii) All costs involved in providing the lines and other facilities required for such service will be paid in full by the owners of the property; and ownership of all main lines, pumping and other facilities will vest in the city upon their completion and acceptance by the city;

(iv) The city shall be provided a bill of sale transferring the ownership of all main lines, pumping and other facilities constructed for such service to the city immediately upon their completion and acceptance by the city;

(v) The city shall be provided with easements satisfactory to allow entry upon private property for maintenance and repair of all main lines, pumping and other facilities constructed for such service which are not located within public rights-of-way, which easements shall be provided immediately upon completion of said main lines;

(vi) The city shall be provided accurate as-built plans of all lines, pumping and other facilities constructed for such service immediately upon their completion and acceptance by the city;

(vii) The city shall be provided a bond issued by a corporate surety authorized to do business in the State of

Tennessee to insure the successful operation of all lines, pumping and facilities constructed for such service for a period of two (2) years from the date service is commenced in such form that performance hereunder by the surety may be directly required by the city;

(viii) The city shall be provided a binding commitment by the owners and occupants of the property to pay all connection fees and other charges prescribed by city ordinances at the time of connection and all regular monthly service charges and outside utility surcharges prescribed by city ordinances during the period of service;

(ix) The utility agreement shall stipulate that any nondomestic users connected to this sewer extension are subject to all conditions of the city's approved pretreatment program, including the requirement for application of a discharge permit. The utility agreement shall further indicate that the manager, or duly authorized staff, have complete access and authority as necessary to implement the pretreatment program, including the ability to inspect and sample the nondomestic user on a regular basis.

(2) City not required to furnish sewer service. The city shall not have an express or implied obligation to provide sewer service to any property outside the city limits. This section shall not affect the city's existing policies and regulations for extending sanitary sewer services in areas that are currently located inside the corporate limits of the City of Sparta.

(3) Prior contracts not affected. This section shall not affect or alter the terms of any contract for such service entered into prior to the effective date of this section. (as added by Ord. #04-778, July 2004, and replaced by Ord. #08-830, Aug. 2008)

**CHAPTER 2****CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>****SECTION**

- 18-201. Definitions.
- 18-202. Compliance with Tennessee Code Annotated.
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- 18-217. Inspection and testing fees.
- 18-218. Thermal expansion control.
- 18-219. Water heater temperature – pressure relief valves.
- 18-220. Safety standards – duplicate equipment in parallel required.

**18-201. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Air gap." A physical separation between the free flowing discharge end of a potable water supply line and an open or non-pressurized receiving vessel.

(2) "Approved." Any condition, method, device, procedure accepted by the Tennessee Department of Environment and Conservation, Division of Water Supply, and the City of Sparta.

(3) "Approved air gap." An air gap separation with a minimum distance of at least twice the diameter of the supply line when measured vertically above the overflow rim of the vessel, but in no case less than one inch (1").

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<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(4) "Auxiliary intake." Any piping connection or other device whereby water may be secured from any sources other than from the public water system.

(5) "Auxiliary water supply." Any water supply on or available to the premises other than water supplied by the public water system.

(6) "Backflow." The reversal of the intended direction of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of a potable water system from any source.

(7) "Backflow prevention assembly." An approved assembly designed to prevent backflow.

(8) "Backpressure." A pressure in the downstream piping that is higher than the supply pressure.

(9) "Back-siphonage." Negative or sub-atmospheric pressure in the supply piping.

(10) "Bypass." Any system of piping or other arrangement whereby water may be diverted around a backflow prevention assembly, meter, or any other public water system controlled device.

(11) "Contaminant." Any substance introduced into the public water system that will cause illness or death

(12) "Contamination." The introduction or admission of any foreign substances that causes illness or death.

(13) "Cross-connection." Any physical arrangement whereby public water supply 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 contaminating the public water supply as result of backflow caused by the manipulation of valves, because of ineffective check valves or backpressure valves or because of any other arrangement.

(14) "Cross-connection control manager." The person who is vested with the authority and responsibility for the implementation of the cross-connection control program and for the provision of this chapter.

(15) "Customer." Any natural or artificial person, business, industry, or governmental entity that obtains water, by purchase or without charge, from the water provider.

(16) "Direct cross-connection." An actual or potential cross-connection subject to back-siphonage and backpressure.

(17) "Double check detector assembly." A specially designed assembly composed of line size approved double check valve assembly, with a bypass containing a water meter and approved double check valve assembly specifically designed for such application. The meter shall register accurately for very low rates of flow up to three (3) gallons per minute and shall show a registration for all rates of flow. This assembly shall only be used to protect against non-health hazards and is designed primarily for use on fire sprinkler systems.



(18) "Double check valve assembly." An assembly of two (2) internally loaded check valves, either spring loaded or internally weighted, installed as a unit between tightly closing resilient seated shutoff valves and fitted with properly located resilient seated test cocks. This type of device shall only be used to protect against non-health hazard pollutants.

(19) "Failed." The status of a backflow prevention assembly determined by a performance evaluation based on the failure to meet all minimums set forth by the approved testing procedure.

(20) "Fire system classifications protection." The classes of fire protection systems, as designated by the American Water Works Association "M14" for cross-connection control purposes based on water supply source and the arrangement of supplies, are as follows:

(a) Class 1: Direct connection to the public water main only; non pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry well or other safe outlets.

(b) Class 2: Same as Class 1, except booster pumps may be installed in connection from the street mains.

(c) Class 3: Direct connection to public water supply mains in addition to anyone or more of the following: Elevated storage tanks; fire pumps taking suction from above ground covered reservoirs or tanks; and pressure tanks.

(d) Class 4: Directly supplied from public water supply mains, similar to Class 1 and Class 2, with and auxiliary water supply dedicated to fire department use and available to premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

(e) Class 5: Directly supplied from public water supply mains and interconnection with auxiliary supplies such as pumps taking suction from reservoirs exposed to contamination, or from rivers, ponds, wells or industrial water systems; where antifreeze or other additives are used.

(f) Class 6: Combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(21) "Hazard, degree of." A term derived from evaluation of the potential risk to public health and the adverse effect of the hazard upon the public water system.

(22) "Hazard, health." A cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, caused death, illness, and spread disease. Also known as a high hazard.

(23) "Hazard, non-health." A cross-connection or potential cross-connection involving any substance that would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the public water supply. Also known as low hazard.

(24) "Hazard, plumbing." A cross-connection in a customer's potable water system plumbing that is not properly protected by an approved air gap or backflow prevention assembly.

(25) "Indirect cross-connection." An actual or potential cross-connection subject to back-siphonage only.

(26) "Industrial fluid." Any fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration that could constitute a health, system, pollution, or plumbing hazard if introduced into the public water supply. This shall include, but is not limited to: polluted or contaminated water; all type of process water or used water originating from the public water system and that may have deteriorated in sanitary quality; chemicals; plating acids and alkalis; circulating cooling water connected to an open cooling lower; cooling towers that are chemically or biologically treated or stabilized with toxic substance; contaminated natural water systems; oil, gases, glycerin, paraffin, caustic, and acid solutions, and other liquids or gases used in industrial processes, or for fire purposes.

(27) "Inspection." An on-site evaluation of an establishment to determine if backflow prevention assemblies are needed by the customer to protect public water system from actual or potential cross-connections.

(28) "Interconnection." Any system of piping or other arrangement whereby a public water supply is connected directly with a sewer, drain, conduit, or other device, which does or may carry sewage or not.

(29) "Passed." The status of a backflow prevention assembly determined by a performance evaluation in which the assembly meets all minimums set forth by the approved testing procedure.

(30) "Performance evaluation." An evaluation of an approved double check valve assembly or reduced pressure principle assembly (including approved detector assemblies) using the latest approved testing procedures in determining the status of the assembly.

(31) "Pollutant." A substance in the public water system that would constitute a non-health hazard and would be aesthetically objectionable if introduced into the public water supply.

(32) "Pollution." The presence of a pollutant or substance in the public water system that degrades its quality so as to constitute a non-health hazard.

(33) "Potable water." Water that is safe for human consumption as prescribed by Tennessee Department of Environment and Conservation, Division of Water Supply.

(34) "Pressure vacuum breaker assembly." An assembly consisting of one (1) or two (2) independently operating spring loaded check valve(s) and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shutoff valve(s) on each side of the check valves and properly located test cocks for testing valves. This assembly is approved for internal use only and is not approved for premise isolation by the State of Tennessee.

(35) "Public water supply." An entity that furnishes potable water for general use and which is recognized as the public water supply by Tennessee Department of Environment and Conservation, Division of Water Supply.

(36) "Public water system." A water system furnishing water to the public for general use which is recognized as a public water supply by the State of Tennessee.

(37) "Reduced pressure principle assembly." An assembly consisting of two (2) independently acting approved check valves together with hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and below the first check valve. These units shall be located between two (2) tightly closing resilient seated shut-off valves as an assembly and equipped with properly located resilient seated test cocks.

(38) "Reduced pressure principle detector assembly." A specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a bypass containing a water meter and approved reduced pressure principle backflow prevention assembly specifically designed for such application. The meter shall register accurately for very low flow rates of flows up to three (3) gallons per minute and shall show registration for all flow rates. This assembly shall be used to protect against non-health and health hazards and used for internal protection.

(39) "Service connection." The point of delivery to the customer's water system; the terminal end of a service connection from the public water system where the water department loses jurisdiction and control over the water. Service connections shall include connections to fire hydrants and all other temporary or emergency water service connections made to the public water system.

(40) "State." The State of Tennessee, Tennessee Department of Environment and Conservation, Division of Water Supply.

(41) "Survey." An evaluation of a premise by water system personnel for the determination of actual or potential cross-connection hazards and the appropriate backflow prevention needed.

(42) "Water system." The water system operated, whether located inside or outside the corporate limits thereof, shall be considered as made up of two (2) parts, the utility system and the customer system:

(a) The utility system shall consist of the facilities for the production, treatment, storage, and distribution of water, and shall include all those facilities of the water system under the complete control of the water department, up to the point where the customer's system begins which is immediately downstream of the water meter.

(b) The customer system shall include those parts of the facilities beyond the termination of the water department distribution system that are utilized in conveying water to the point of use. The customer is responsible for all costs related to installation, maintenance

and repairs of the customer system. (1978 Code, § 8-401, as replaced by Ord. #10-845, March 2010)

**18-202. Compliance with Tennessee Code Annotated.** The public water system is to comply with Tennessee Code Annotated, § 68-221-711, as well as the Rules of Public Water Systems, legally adopted in accordance with this chapter, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective, ongoing program to control these undesirable water uses. (1978 Code, § 8-402, as replaced by Ord. #10-845, March 2010)

**18-203. Regulated.** (1) No person shall cause a cross-connection, auxiliary intake, bypass, or interconnection to be made, or allow one to exist for any purpose whatsoever unless the construction and operation of same has been approved by the Tennessee Department of Environment and Conservation and the operation of such cross-connection, auxiliary intake, bypass, or interconnection is at all times under the direct supervision of the cross-connection control manager of the public water system.

(2) No water service connection to any premises shall be installed or maintained by the City of Sparta unless the water supply is protected as required by this policy/chapter.

(3) Service of water to any premises shall be discontinued by the City of Sparta if a backflow prevention assembly required by this policy is not properly installed, tested, and/or maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(4) Prior to execution any work order for a new customer, or for any change in service to an existing customer, notification shall be given to the City of Sparta. Inspectors from the City of Sparta shall make immediate determination in writing to the customer of the type of backflow prevention assembly needed. Water service shall not be established or maintained until all necessary backflow prevention assemblies are installed. Such assembly(s) shall be tested within no more than ten (10) days upon connection to water system (time depends on hazard and risk).

(5) It shall be unlawful for any person to cause a cross-connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection is at all times under the direction of the City of Sparta.

(6) If, in the judgment of the cross-connection manager, an approved backflow prevention assembly is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall require the installation, testing, and

maintenance of the required backflow prevention assembly(s) at the customer's expense.

(7) An approved backflow prevention assembly shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases before the first branch line leading off the service line.

(8) For new installations, the cross-connection manager shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention assembly, if any, that will be required, and to notify the owners in writing of the required assembly and installation criteria. All required assemblies shall be installed and operational prior to initiation of water service.

(9) For all existing premises, personnel from the City of Sparta shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this policy/chapter.

(10) For existing installations, the cross-connection manager may cause water service to be discontinued until such time as the customer complies with all requirements of state law and this chapter.

(11) The customer shall install approved assembly(s) at their expense. Failure, refusal, or inability on the part of the customer to install and maintain such an assembly shall be cause for discontinuance of, or refusal of, water service to the premises until such requirements are satisfactorily met.

(12) No installation, alteration or change(s) shall be made to any backflow prevention assembly connected to the public water system without first securing permission from the cross-connection manager.

(13) All backflow prevention assemblies shall be inspected after installation for compliance with all requirements of this chapter. Failure to meet all installation and testing requirements shall be cause for discontinuance of, or refusal of, water service to the premises until such requirements are satisfactorily met.

(14) It shall be unlawful to install or allow any unprotected takeoffs from the water service line ahead of any meter or backflow prevention assembly located directly after the service connection to a customer's water system. (1978 Code, § 8-403, as amended by Ord. #06-817, Nov. 2007, and replaced by Ord. #10-845, March 2010)

**18-204. Statement required.** That any person whose premises are supplied with water from public water system, and who also has on the same premises a separate source of water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the City of Sparta a statement of the nonexistence 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. (1978 Code, § 8-404, as replaced by Ord. #10-845, March 2010)

**18-205. Applicability.** The requirements contained herein shall apply to all customers and premises of the City of Sparta, and is hereby made a condition required to be met before water service is provided to any customer. This chapter shall be strictly enforced since it is essential for the protection of the public water supply against contamination and pollution. (1978 Code, § 8-405, as amended by Ord. #06-817, Nov. 2007, and replaced by Ord. #10-845, March 2010)

**18-206. Inspections/surveys.** The cross-connection manager shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be established by the cross-connection manager in accordance with guidelines acceptable to the division of water supply.

(1) The cross-connection manager shall have the right to enter at any reasonable time any property served by a connection to the public water system for the purpose of inspecting the piping system therein for cross-connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant or any property so served shall furnish any pertinent information regarding the piping system on the property. The refusal of such information or refusal of access, when requested, shall be deemed as evidence of the presence of cross-connections.

(2) When cross-connections, other structural or sanitary hazards, or any violation of this becomes known, the cross-connection manager may deny or discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the conditions(s) in conformance with this chapter. (1978 Code, § 8-406, as replaced by Ord. #10-845, March 2010)

**18-207. Backflow prevention determination.** In the case of any premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by a reduced pressure principle assembly (detector) or air gap separation (at the discretion of water provider) assembly on each service line to the premises.

In the case of any premises where toxic substances are present that could pose an undue health hazard, the cross-connection control manager may require an air gap separation or reduced pressure principle assembly at the service connection to protect the public water system. In making this determination, the cross-connection control manager shall consider the degree of hazard based on criteria list in approved plan.

An approved backflow prevention assembly shall be installed on each service line to a customer's premises within a distance of the water meter, determined by the cross-connection manager, and in all cases before the first branch line leading off the service line, if it is impractical or easily altered to provide an effective air gap separation, when any of the following conditions exist:

(1) All premises listed as high risk high hazard including industrial fluids, sewage, or any other non-potable substances that are handled in such a manner as to create actual or potential health hazard to the water system.

(2) All premises listed with actual or potential cross-connections listed in approved plan criteria list.

(3) Premises having auxiliary water supply, including but not limited to a well, cistern, spring, pond, river, or creek that is not, or may not be, of safe bacteriological or chemical quality and that is not acceptable as an additional source by the cross-connection control manager.

(4) The plumbing from a private well or other water supply entering the building served by the public water supply, or is connected, directly or indirectly, to the public water supply.

(5) The owner or occupant of the premises cannot or is not willing to demonstrate that the water use and protective features of the plumbing are such that frequent alterations are not made to the plumbing.

(6) The nature and mode of operation within the premises is such that frequent alterations are made to the plumbing.

(7) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required.

(8) There is likelihood that protective measures may be subverted, altered, or disconnected.

(9) Any premises having service and fire flow connections, most commercial and educational buildings, construction sites, all industrial and medical facilities, lawn irrigation systems, public or private swimming pools, private fire hydrant connections used by any fire department in combating fires, photographic laboratories, standing ponds or other bodies of water, auxiliary water supplies, and wastewater treatment plants.

(10) Any premises having fountains, water softeners or other point of use treatment systems, hot tubs or spas, or other type(s) of water using equipment.

(11) Premises otherwise determined by the cross-connection control manager to create an actual or potential hazard to the public water system.

(12) In the case of any premises where there is any material dangerous to health that is handled in such a fashion as may create an actual or potential health hazard to public water system, the public water system shall be protected by an air gap separation (at the discretion of the City of Sparta to allow) or a reduced pressure principle backflow prevention assembly. The following premises, where such conditions may exist, include but are not limited to:

sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries, funeral homes and metal plating operations.

(13) In the case of any premises where, because of security requirements or other prohibitions or restriction, it is impossible or impractical to make a complete cross-connection survey, the public water system shall be protected against backflow from the premises by either an air gap separation (at the discretion of the City of Sparta) or reduced pressure principle assembly on each service line to the premises.

(14) A backflow prevention assembly shall be installed on each fire service line at the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line wherever any of the following conditions exist:

(a) Class 1, 2, and 3 fire protection systems shall require at minimum a double check valve (detector) assembly; provided however, that a reduced pressure principle (detector) shall be required;

(b) Underground fire sprinkler pipelines are parallel to and within ten feet (10') horizontally of pipelines carrying waste water or significantly toxic wastes; or

(c) Premises having unusually complex piping systems;

(d) The pumpers connecting to the system have corrosion inhibitors or other chemical added to the tanks of the fire trucks;

(e) The piping system(s) has corrosion inhibitors or other chemical added to prevent freezing;

(f) An auxiliary water supply exists with one thousand seven hundred feet (1,700') of any likely pumper connection.

(15) Class 4, Class 5, Class 6 fire protection systems shall require an air gap or a reduced pressure principle assembly (detector) as determined by the cross-connection control manager.

(16) Where a fire sprinkler system is installed on the premises, a minimum of a double check valve assembly (detector) shall be required.

(17) Where a fire sprinkler system uses chemicals, such as liquid foam, to enhance fire suppression a reduced pressure principle detector assembly shall be required.

(18) The cross-connection control manager may require internal or additional backflow prevention devices where it is deemed necessary to protect potable water supplies within the premises.

(19) In the case of any premises with an auxiliary water supply as set out in § 18-210, and not subject to any of the following rules, the public water system shall be protected by an air gap separation or a reduced pressure principle assembly.

(20) Double check valve assemblies (and detectors) may only be used for Class 1-3 fire protection systems (at the discretion of the City of Sparta to even allow). (1978 Code, § 8-407, as amended by Ord. #06-817, Nov. 2007, and replaced by Ord. #10-845, March 2010)



**18-208. Approved backflow prevention assemblies and methods.**

(1) All backflow prevention assemblies shall be fully approved and listed as acceptable by the State of Tennessee as to manufacture, model, size, application, orientation, and alterations. The assembly must have a status of passed, determined by performance evaluations to suffice as an approved backflow prevention assembly. The method of installation of backflow prevention devices shall comply with installation criteria set forth by this chapter and the State of Tennessee. Installation shall be at the sole expense of the owner of the owner or occupant of the premises.

(2) The type of protective assembly required by this chapter shall depend on the degree of hazard that exists. Reduced pressure principle assemblies (detector) may be used for health hazards and non-health hazards. Double check valve assemblies (detector) may only be used for non-health hazards and is limited to Class 1-3 fire systems only.

(3) Pressure vacuum breakers, spill-resistant vacuum breakers, and atmospheric vacuum breaker are not allowed for premise isolation and will not satisfy the requirements of this chapter for adequate backflow prevention due in part to the inability to protect against backpressure. (1978 Code, § 8-408, as amended by Ord. #06-817, Nov. 2007, and replaced by Ord. #10-845, March 2010)

**18-209. Backflow prevention assembly installation requirements.**

(1) Minimum acceptable criteria for installation of backflow prevention assemblies shall include the following:

(2) All backflow prevention assemblies shall be installed at minimum in the approved orientation as indicated by the latest approved list.

(3) All new assemblies installed must be on the approved assemblies list maintained by the division of water supply and existing assemblies must have status of approved.

(4) Installation of assemblies shall be performed by a licensed person. All backflow prevention assemblies installed fire protection systems must be performed by persons possessing a fire sprinkler contractor license. Evidence of current certifications license must be on file with the cross-connection control manager before any installation or testing of the devices can be performed.

(5) All assemblies shall be installed in accordance with the manufacturer installation instructions and by the State of Tennessee installation guide, from the state manual or policies on cross-connection control, unless such instructions are in conflict with this policy, in which case this chapter shall control, and shall possess all test cocks and fittings required for testing the assembly. All test cocks shall be fitted with adapters and all fittings permitting direct connection to test kits used by the City of Sparta.

(6) The entire assembly including test cocks and valves shall be easily accessible for testing and repair and shall meet all confined space requirements of OSHA/TOSHA.

(7) Reduced pressure backflow prevention assemblies shall be located so that the relief valve discharge port is a minimum of twelve inches (12"), plus nominal diameter of the supply line, above the floor surface. The maximum height above the floor surface shall not exceed sixty inches (60").

(8) Clearance of devices from wall surfaces or other obstructions shall be a minimum of six inches (6"), or if a person must enter the enclosure for repair or testing, the minimum distance shall be twenty-four inches (24").

(9) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive, sticky, greasy, abrasive, or other damaging substance.

(10) Devices shall be positioned where discharge from a relief port will not create undesirable conditions. An approved air gap shall separate the relief port from any drainage system. Such air-gap shall not be altered without the specific approval of the City of Sparta.

(11) Devices shall be located in an area free from submergence or flood potential and cannot be placed in a pit.

(12) All devices shall be adequately supported to prevent sagging.

(13) An approved strainer, fitted with a test cock, shall be installed immediately upstream of all backflow prevention assemblies or shut-off valve, except on fire lines, using only non-corrosive fittings (e.g. brass or bronze) in the device assembly.

(14) Gravity drainage is required on all installations. Below ground installations shall not be permitted for any testable reduced pressure principle assemblies (detectors)

(15) Fire hydrant drains shall not be connected to the sanitary sewer, and fire hydrants shall not be installed in such manner that back-siphonage or backflow through the drain may occur.

(16) Where jockey (low volume-high pressure) pumps are utilized to maintain elevated pressure, as in fire protection system, the discharge of the pump shall be on the downstream side of any check valve or backflow prevention assembly. Where the supply for the jockey pump is taken from the upstream supply side of the check valve or backflow prevention assembly, a backflow prevention assembly of the same type(s) required on the main line shall be installed on the supply line.

(17) Fixed position, high volume pumps shall be equipped with suction limiting control to modulate the pump if the residual line pressure reaches twenty (20) psi. If line pressure drops below twenty (20) psi, the pump will shut off to protect the distribution system. This shut off system must be tested annually for proper operation and report of the test must be sent to the City of Sparta. (1978 Code, § 8-409, as replaced by Ord. #10-845, March 2010)

**18-210. Existing backflow prevention assemblies.** (1) All presently installed backflow prevention assemblies which were previously acceptable to the State of Tennessee that complies with installation, testing, and maintenance

requirements of this policy/chapter and in the sole discretion of the cross-connection control manager adequately protect the public water system from backflow and that were approved assemblies for the purpose described herein at the time of installation may be retained in service.

(2) Location or space requirements shall not be cause for re-location or replacement of any backflow prevention assembly. Any backflow prevention assembly that is presently installed in a vertical run of pipe shall be replaced, reinstalled, in an approved manner in a horizontal run of pipe.

(3) Wherever an existing assembly is moved from the present location, or when the City of Sparta finds that the conditions of the assembly constitutes a health hazard, the unit shall be replaced by a backflow prevention assembly meeting the requirements of this chapter. (1978 Code, § 8-410, as replaced by Ord. #10-845, March 2010)

**18-211. Assembly performance evaluations and testing.** (1) All assemblies used to protect the public water system must be tested every twelve (12) months. In those instances where the cross-connection manager deems the hazard to be great enough, performance evaluation may be required at more frequent intervals.

(2) Any assembly not tested within a twelve (12) month period will be deemed not approved and have a status of failed.

(3) The customer will be notified in writing that the assembly is not in compliance with this chapter.

(4) All assemblies must be deemed passed for each initial and subsequent annual performance evaluation to satisfy as approved backflow prevention assembly. If any test does not meet the minimum requirements set forth in the approved testing procedure, the assembly is deemed failed and does not suffice as an approved backflow prevention device. If conditions around the assembly do not allow the assembly to be tested, the assembly fails the assembly performance evaluation and is marked failed on test report. (Examples would include assembly is submerged, test cocks missing or plugged, relief valve continually discharging.)

(5) Backflow prevention assemblies are deemed passed if all parts of the performance evaluation meet the minimum requirements in the approved testing procedure.

(6) All assemblies will be tested by a backflow prevention assembly tester possessing a valid certificate of competency in testing and evaluation backflow prevention assemblies issued by the State of Tennessee.

(7) All performance evaluations must be performed with an annually certified test kit. Certifications for test kits are valid for one (1) year after certification is performed. If the test kit is not recertified after one (1) year, it is deemed expired. Test kits must be certified annually and the backflow prevention assembly tester must show proof of certification from manufacturer-approved entities. No performance evaluations will be accepted

from a backflow prevention assembly tester with an expired test kit certification. Proof of annual kit certification and certificate of competency must be kept on file for each tester by the City of Sparta. Backflow prevention assembly testers must test and evaluate according to the division of water supply's latest approved procedures for reduced pressure principle assembly and double check valve assembly.

(8) Each location requiring an assembly shall have a documented backflow prevention assembly. If the assembly at the address cannot be identified or is not the same, the water provider will be notified and a determination of which assembly is used for protection of the water system. All areas that need protection shall be listed by address and location along with the serial number of device.

(9) Test reports must be completely and accurately documented and the appropriate evaluation (passed or failed) determined from testing procedure. Any test report that is not recorded completely in the sections pertinent to the results of the performance evaluation tests will not be accepted by the City of Sparta.

(10) All performance evaluations on file will be recorded on a test report approved by the state and the City of Sparta.

(11) Assemblies must be tested when installed and after every repair and have a status of passed to be in compliance with this chapter. Backflow prevention assemblies on lawn irrigation systems must be tested when assemblies are placed in service after winterization (to prevent testing just prior to winterization). If lawn irrigation backflow assemblies are removed to winterize the system, the assemblies must be retested prior to startup of the system.

(12) Failure to maintain a backflow prevention assembly that is deemed passed shall be grounds for discontinuance of water service. The removal, bypassing, or altering of a protective device or installation, without the approval of the cross-connection control manager, thereof so as to render a device 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 conditions or defects to the satisfaction this chapter and the cross-connection control manager.

(13) The City of Sparta shall require the occupant of the premises to keep the backflow prevention assembly working properly and a status of passed. Repairs shall be made by licensed personnel acceptable to the City of Sparta within the time limits set forth by this policy. Expense of such repairs shall be borne by the owner or occupant of the premises. The failure to maintain a backflow prevention assembly in proper working order and a status of passed shall be grounds for discontinuance of water service.

(14) Cross-connection control manager shall have the right to inspect and test any assemblies whenever it is deemed necessary. Water service shall

not be disrupted to the assembly without the knowledge of the occupant of the premises.

(15) Provisions should be made for fire sprinkler system to be tested by a licensed fire sprinkler contractor with a valid TEDC backflow prevention assembly testing certification. Proof of certification must be presented to the cross-connection control manager.

(16) Any backflow prevention assembly tester found by the City of Sparta to be negligent in performing testing procedures or falsifying documentation in regards to a backflow prevention assembly will not be allowed continued approval to submit test reports. The City of Sparta may allow the backflow prevention assembly tester to perform testing at a later date, at the discretion of the cross-connection control manager.

(17) Backflow prevention assembly testers must have approval from the City of Sparta before any test reports are accepted. The City of Sparta will issue a copy of this chapter and require the signature of the tester acknowledging requirements and responsibilities before allowance of submittal of test reports.

(18) All performance evaluations, tests, and repairs shall be at the expense of the customer and shall be performed by backflow prevention assembly testers that satisfy all requirements of this chapter.

(19) Original records of evaluations and repairs shall be supplied to the cross-connection control manager for retention. (as added by Ord. #10-847, March 2010)

**18-212. Corrections of violations.** (1) Any customer having cross-connections, auxiliary intakes, bypasses, or interconnection(s) in violation of this chapter shall, after a thorough investigation of existing conditions and an appraisal of the time required, complete the work within the time designated by the cross-connection control manager, but in no case shall the time for correction exceed ninety (90) days for high and low hazards or fourteen (14) days for high risk high hazards.

(2) Failure to comply with any order of the cross-connection control manager within the time set out there in shall result in the termination of water service.

(3) Where cross-connections, auxiliary intakes, bypasses, or interconnections are found to constitute a high risk high hazard to the public water supply, the cross-connection control manager shall require prompt corrective action (within fourteen (14) days) to be taken to eliminate the threat. Expeditious steps shall be taken to disconnect the public water system from the customer's piping systems unless the extreme hazard is corrected immediately.

(4) Failure to correct conditions threatening the safety of the public water system as prohibited by this chapter or Tennessee Code Annotated, § 68-221-711 within the time limits set by the cross-connection control manager or this chapter, shall be cause for denial or termination of water service, If proper protection is not provided after times set forth in this policy/chapter, the

cross-connection control manager shall give the customer written notification that water service is to be discontinued, and thereafter physically separate the public water system from the customer's system in such a manner that the two (2) systems cannot be connected by an unauthorized person.

(5) In the event that a backflow prevention assembly is deemed failed (initial or annual performance evaluation), failure to install backflow prevention assemblies as requested by the City of Sparta, or there are deficiencies in the installation from failure to conform to the installation criteria specified in this chapter, or from deterioration, then the cross-connection control manager shall issue a written notice of failure or deficiency within ninety (90) days. The time limit is dependent on risk of contamination but may not be greater than ninety (90) days. (as added by Ord. #10-847, March 2010)

**18-213. Non-potable supplies.** (1) Any water outlet connected to auxiliary water sources, industrial fluid systems, or other piping containing non-potable liquids or gases, which could be used for potable or domestic purposes, shall be labeled in a conspicuous manner as:

**WATER UNSAFE  
FOR DRINKING**

(2) The minimum acceptable sign shall have black letters at least one inch (1") high on red background.

(3) Color coding of piping in accordance with Occupational Safety and Health Act guidelines may be required in locations where, in the judgment of the City of Sparta, this is deemed necessary. Such color coding is necessary to identify and protect the potable water supply. (as added by Ord. #10-847, March 2010)

**18-214. Conflicting provisions.** If any provision of this chapter is found to conflict with any provision of any other chapter/policy, then the provision of this chapter shall control that should any part, or parts of this chapter be declared invalid for any reason, no other part, or parts, of this chapter shall be affected thereby. (as added by Ord. #10-847, March 2010)

**18-215. Penalties.** Any person responsible for a violation of this chapter may be subject to a civil penalty of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00). Each day a violation occurs shall constitute a separate offense. In addition to the foregoing fines and penalties, the cross-connection control manager shall discontinue the public water service at any premises upon connection and service shall not be restored until such cross-connection, auxiliary intake, bypass, or interconnection has been discontinued. Independent of and in addition to fines penalties imposed, the cross-connection control manager may discontinue the public water supply

service to any premises upon which there is found to be a cross-connection, auxiliary intake, bypass, or interconnection; and service shall not be restored until such cross-connection, auxiliary intake, bypass, or interconnection has been eliminated. (as added by Ord. #10-847, March 2010)

**18-216. Responsibility for water system.** (1) Notwithstanding any provisions of a plumbing code adopted by units of local government having jurisdiction, the cross-connection control manager shall be responsible for protecting the water system from contamination or pollution due to implementation and enforcement of this policy. Such authority shall extend beyond service connection to whatever extent is necessary to meet the requirements of this chapter.

(2) The authority to terminate water service for violation of any provision of this chapter shall rest solely with the cross-connection control manager, who shall have authority to take action to protect public health and safety.

(3) This section shall not be construed to prevent other officers or employees of the City of Sparta from terminating water service for failure to pay for water service, or for violation any other provision of this chapter. (as added by Ord. #10-847, March 2010)

**18-217. Inspection and testing fees.** (1) Fees for initial or annual certification of a backflow prevention assembly may be published by the City of Sparta based on the recommendation of the cross-connection control manager to reflect the cost of processing such certification.

(2) In the event that a backflow prevention assembly is deemed failed after the initial and annual performance evaluations, or there are deficiencies in the installation either from failure to conform to the installation criteria specified in this chapter, or from deterioration, then the cross-connection control manager shall issue a written notice of failure or deficiency.

(3) The cross-connection control manager may waive any fees and/or cost that should be appropriately relieved. (as added by Ord. #10-847, March 2010)

**18-218. Thermal expansion control.** A device for the control of thermal expansion shall be installed on the customer's water system where the thermal expansion of the water in the system can cause the water pressure to exceed the pressure setting of the pressure relief valve of the water heater. The thermal expansion device shall control the water pressure to prevent the pressure relief valve of the water heater from discharging. (as added by Ord. #10-847, March 2010)

**18-219. Water heater temperature – pressure relief valves.** (1) All storage water heaters operation above atmospheric pressure shall be provided

with an approved, self-closing (levered) pressure relief and temperature valve or combination thereof, except for non-storage instantaneous heaters. Such valves shall be installed in the shell of the water heater tank or may be installed in hot water outlet, provided the thermo-bulb extends into the shell of the tank. Temperature relief valves shall be so located in the tank as to be actuated by water in the top one-eighth (1/8) of the tank served.

(2) For installations with separate storage tank, said valve shall be installed on the tank and there shall not be any type of valve installed between the water heater and the storage tank. There shall not be a check valve or shut off valve between a relief valve and the heater or tank which it serves. The relief valve shall not be used as a means of controlling thermal expansion. (as added by Ord. #10-847, March 2010)

**18-220. Safety standards – duplicate equipment in parallel required.** Where the use of water is critical to the continuation 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 a backflow prevention assembly. Until such time as a parallel unit has been installed where the continuance of service is critical, the cross-connection control manager shall notify the occupant of the premises, in writing, of plans to interrupt water service and arrange for a mutually acceptable time to test or repair the assembly. (as added by Ord. #10-847, March 2010)



### CHAPTER 3

#### **WATER AND SEWER RATES, SERVICE POLICIES AND FEES**

##### **SECTION**

- 18-301. Purpose.
- 18-302. Water rates.
- 18-303. Deleted.
- 18-304. Deleted.
- 18-305. Deleted.
- 18-306. Deleted.
- 18-307. Sewer rate.
- 18-308. Service and tap fee.
- 18-309. Utility district rates.

**18-301. Purpose.** The following rate and fee structures are adopted so that safe and efficient water and sewer services may be provided in the City of Sparta and in other circumstances where services may be provided as have been or will be approved by the Sparta Board of Mayor and Aldermen. (As added by Ord. #99-723, Nov. 1999)

**18-302. Water rates.** The following water rates shall apply for all user classifications for the fiscal years indicated below:

**CITY OF SPARTA, TN WATER AND SEWER RATES**

<b>Rates in effect as of September 2008</b>			<b>Rates effective beginning January 1, 2009, for meters read on or after February 1, 2009</b>			<b>Rates effective beginning June 1, 2009, for meters read on or after July 1, 2009</b>		
<b>WATER RATES INSIDE</b>			<b>WATER RATES INSIDE</b>			<b>WATER RATES INSIDE</b>		
<u>Residential rate code 22 (per 1,000 gals.)</u>			<u>Residential rate code 22 (per 1,000 gals.)</u>			<u>Residential rate code 22 (per 1,000 gals.)</u>		
First 2,000 gals. min.		\$8.70	First 2,000 gals. min.		\$11.00	First 2,000 gals. min.		\$13.20
Next 8,000 gals.	@	2.01	Next 8,000 gals.	@	2.70	Next 8,000 gals.	@	3.24
Next 90,000 gals.	@	1.54	Next 90,000 gals.	@	1.70	Next 90,000 gals.	@	2.04
All over 100,000 gals.	@	1.36	All over 100,000 gals.	@	1.70	All over 100,000 gals.	@	2.04
<u>Commercial rate code 35 (per 1,000 gals.)</u>			<u>Commercial rate code 35 (per 1,000 gals.)</u>			<u>Commercial rate code 35 (per 1,000 gals.)</u>		
First 2,000 gals. min.		\$10.89	First 2,000 gals. min.		\$13.75	First 2,000 gals. min.		\$15.50
Next 8,000 gals.	@	2.81	Next 8,000 gals.	@	3.38	Next 8,000 gals.	@	4.05.
Next 90,000 gals.	@	2.15	Next 90,000 gals.	@	2.13	Next 90,000 gals.	@	2.55
All over 100,000 gals.	@	1.91	All over 100,000 gals.	@	2.13	All over 100,000 gals.	@	2.55
<u>Industrial rate code 80 (per 1 000 gals.)</u>			<u>Industrial rate code 80 (per 1 000 gals.)</u>			<u>Industrial rate code 80 (per 1 000 gals.)</u>		
First 2,000 gals. min.		\$11.16	First 2,000 gals. min.		\$13.75	First 2,000 gals. min.		\$16.50
Next 8,000 gals.	@	2.90	Next 8,000 gals.	@	3.38	Next 8,000 gals.	@	4.05

Next 90,000 gals.	@	2.23	Next 90,000 gals.	@	2.13	Next 90,000 gals.	@	2.55
All over 100,000 gals.	@	1.98	All over 100,000 gals.	@	2.13	All over 100,000 gals.	@	2.55
<b>OUTSIDE</b>			<b>OUTSIDE</b>			<b>OUTSIDE</b>		
<u>Residential rate code</u> <u>01 (per 1,000 gals.)</u>			<u>Residential rate code</u> <u>01 (per 1,000 gals.)</u>			<u>Residential rate code</u> <u>01 (per 1,000 gals.)</u>		
First 2,000 gals. min.		\$11.97	First 2,000 gals. min.		\$16.50	First 2,000 gals. min.		\$19.80
Next 8,000 gals.	@	3.20	Next 8,000 gals.	@	4.05	Next 8,000 gals.	@	4.86
Next 90,000 gals.	@	2.47	Next 90,000 gals.	@	2.55	Next 90,000 gals.	@	3.06
All over 100,000 gals.	@	2.18	All over 100,000 gals.	@	2.55	All over 100,000 gals.	@	3.06
<u>Commercial rate code</u> <u>14 (per 1,000 gals.)</u>			<u>Commercial rate code</u> <u>14 (per 1,000 gals.)</u>			<u>Commercial rate code</u> <u>14 (per 1,000 gals.)</u>		
First 2,000 gals. min.		\$13.94	First 2,000 gals. min.		\$20.63	First 2,000 gals. min.		\$24.75
Next 8,000 gals.	@	3.94	Next 8,000 gals.	@	5.06	Next 8,000 gals.	@	6.08
Next 90,000 gals.	@	3.02	Next 90,000 gals.	@	3.19	Next 90,000 gals.	@	3.83
All over 100,000 gals.	@	2.68	All over 100,000 gals.	@	3.19	All over 100,000 gals.	@	3.83
<u>Utility districts (per</u> <u>1,000 gals.)</u>			<u>Utility districts (per</u> <u>1,000 gals.)</u>			<u>Utility districts (per</u> <u>1,000 gals.)</u>		
All over 1 gal.		\$1.55	All over 1 gal.		\$1.95	All over 1 gal.		\$2.34

(as added by Ord. #99-723, Nov. 1999, and replaced by Ord. #01-740, Oct. 2001; Ord. #03-771, Sept. 2003; Ord. #05-791, May 2005, and Ord. #08-835, Dec. 2008)

**18-303. Deleted.** (as added by Ord. #99-723, Nov. 1999; replaced by Ord. #01-740, Oct. 2001; and Ord. #03-771, Sept. 2003; and deleted by Ord. #05-791, May 2005)

**18-304. Deleted.** (as added by Ord. #99-723, Nov. 1999; replaced by Ord. #01-740, Oct. 2001; and Ord. #03-771, Sept. 2003; and deleted by Ord. #05-791, May 2005)

**18-305. Deleted.** (as added by Ord. #99-723, Nov. 1999; replaced by Ord. #01-740, Oct. 2001; and Ord. #03-771, Sept. 2003; and deleted by Ord. #05-791, May 2005)

**18-306. Deleted.** (as added by Ord. #99-723, Nov. 1999; replaced by Ord. #01-740, Oct. 2001; and Ord. #03-771, Sept. 2003; and deleted by Ord. #05-791, May 2005)

**18-307. Sewer rate.**

<b>Rates in effect as of September 2008</b>		<b>Rates effective beginning January 1, 2009, for meters read on or after February 1, 2009</b>		<b>Rates effective beginning June 1, 2009, for meters read on or after July 1, 2009</b>	
<b>SEWER RATES INSIDE</b>		<b>SEWER RATES INSIDE</b>		<b>SEWER RATES INSIDE</b>	
<u>Residential rate code</u> <u>22 (per 1,000 gals.)</u>		<u>Residential rate code</u> <u>22 (per 1,000 gals.)</u>		<u>Residential rate code</u> <u>22 (per 1,000 gals.)</u>	
First 2,000 gals. min.	\$11.51	First 2,000 gals. min.	\$14.85	First 2,000 gals. min.	\$17.82
Next 8,000 gals.	@ 2.61	Next 8,000 gals.	@ 3.65	Next 8,000 gals.	@ 4.37
Next 90,000 gals.	@ 2.00	Next 90,000 gals.	@ 2.30	Next 90,000 gals.	@ 2.75
All over 100,000 gals.	@ 1.77	All over 100,000 gals.	@ 2.30	All over 100,000 gals.	@ 2.75
<u>Commercial rate code</u> <u>35 (per 1,000 gals.)</u>		<u>Commercial rate code</u> <u>35 (per 1,000 gals.)</u>		<u>Commercial rate code</u> <u>35 (per 1,000 gals.)</u>	
First 2,000 gals. min.	\$14.26	First 2,000 gals. min.	\$19.31	First 2,000 gals. min.	\$26.73
Next 8,000 gals.	@ 3.65	Next 8,000 gals.	@ 5.47	Next 8,000 gals.	@ 6.56
Next 90,000 gals.	@ 2.80	Next 90,000 gals.	@ 3.44	Next 90,000 gals.	@ 4.13
All over 100,000 gals.	@ 2.48	All over 100,000 gals.	@ 3.44	All over 100,000 gals.	@ 4.13
<u>Industrial rate code</u> <u>80 (per 1 000 gals.)</u>		<u>Industrial rate code</u> <u>80 (per 1 000 gals.)</u>		<u>Industrial rate code</u> <u>80 (per 1 000 gals.)</u>	
First 2,000 gals. min.	\$14.51	First 2,000 gals. min.	\$22.28	First 2,000 gals. min.	\$26.73
Next 8,000 gals.	@ 3.77	Next 8,000 gals.	@ 5.47	Next 8,000 gals.	@ 6.56
Next 90,000 gals.	@ 2.90	Next 90,000 gals.	@ 3.44	Next 90,000 gals.	@ 4.13

All over 100,000 gals.	@	2.57	All over 100,000 gals.	@	3.44	All over 100,000 gals.	@	4.13
<b>OUTSIDE</b>			<b>OUTSIDE</b>			<b>OUTSIDE</b>		
<u>Residential rate code</u>			<u>Residential rate code</u>			<u>Residential rate code</u>		
<u>01 (per 1,000 gals.)</u>			<u>01 (per 1,000 gals.)</u>			<u>01 (per 1,000 gals.)</u>		
First 2,000 gals. min.		\$15.56	First 2,000 gals. min.		\$22.28	First 2,000 gals. min.		\$26.75
Next 8,000 gals.	@	4.16	Next 8,000 gals.	@	5.47	Next 8,000 gals.	@	6.56
Next 90,000 gals.	@	3.21	Next 90,000 gals.	@	3.44	Next 90,000 gals.	@	4.13
All over 100,000 gals.	@	2.85	All over 100,000 gals.	@	3.44	All over 100,000 gals.	@	4.13
<u>Commercial rate code</u>			<u>Commercial rate code</u>			<u>Commercial rate code</u>		
<u>14 (per 1,000 gals.)</u>			<u>14 (per 1,000 gals.)</u>			<u>14 (per 1,000 gals.)</u>		
First 2,000 gals. min.		\$18.12	First 2,000 gals. min.		\$28.96	First 2,000 gals. min.		\$34.75
Next 8,000 gals.	@	5.12	Next 8,000 gals.	@	7.11	Next 8,000 gals.	@	8.53
Next 90,000 gals.	@	3.93	Next 90,000 gals.	@	4.48	Next 90,000 gals.	@	5.37
All over 100,000 gals.	@	3.48	All over 100,000 gals.	@	4.48	All over 100,000 gals.	@	5.37

(As added by Ord. #99-723, Nov. 1999, and replaced by Ord. #01-740, Oct. 2001, Ord. #03-771, Sept. 2003, and Ord. #08-835, Dec. 2008)

**18-308. Service and tap fees.**

- (1) Residential 3/4 inch water service.
- |   |       |
|---|-------|
| Inside city limits                      | \$600 |
| Outside city limits--in subdivision     | \$800 |
| Outside city limits--not in subdivision | \$800 |

A subdivision is defined as five (5) residential taps in existence with the new metering point being no more than 200 feet from the main.

- (2) Commercial water service.
- |                               |                                 |
|-------------------------------|---------------------------------|
| 3/4 inch--inside city limits  | \$600                           |
| 3/4 inch--outside city limits | \$800                           |
| 1 inch--inside city limits    | \$800                           |
| 1 inch--outside city limits   | \$1,000                         |
| 2 inch--inside city limits    | \$2,200                         |
| 2 inch--outside city limits   | \$2,400                         |
| Over 2 inch                   | Determined by Utilities Manager |

- (3) Sewer service.
- |             |         |
|-------------|---------|
| Residential | \$1,000 |
| Commercial  | \$1,000 |

(4) Water and sewer service (if available) will be provided to the customer's property line. The customer will be responsible from that point or from the meter (for water service).

- (5) Tap fees for apartment buildings

Individual Meters

Water tap	\$600 per unit - 3/4 inch line
Sewer tap	\$1,000 per unit

Meters and lines provided and installed by owner.

Master Meter

Water tap	\$2,000 plus \$50 per unit - 6 inch line
-----------	--

Meter is to be provided and installed by owner. The City of Sparta will maintain fire protection lines and hydrants.

Master Meter

Sewer tap	\$2,000 plus \$50 per unit - 6 inch line
-----------	--

Customer will be billed a minimum water and sewer commercial rate for each apartment. Greater consumption will be billed accordingly.

Apartments wishing to install one master meter for 4 apartments (for example) will be charged the current tap fees according to line size plus \$25.00 for each unit for water and \$20.00 for each unit for sewer. Meters and lines will be provided and installed by the owner.

(6) Sewer capacity development fees for outside of city limits customers and other not listed. The sewer capacity development fee(s) for all uses not specified and for areas outside the Sparta city limits will be determined on a case-by-case basis using a system buy-in method. The capacity development fee will be computed by the city by the following method using values from the city's most recent audit report.

Capacity Development Fee=Value of property, plant and equipment (net) less [outstanding debt + developer fees + tap fees + grant funds] divided by existing wastewater treatment plant capacity in gallons per day times equivalent residential connections (ERC). An ERC is 350 gallons per day. (As added by Ord. #99-723, Nov. 1999, and amended by Ord. #01-740, Oct. 2001, and Ord. #03-771, Sept. 2003)

**18-309. Utility district rates.** The water rate for utility districts shall be \$1.55 per 1,000 gallons. (as added by Ord. #01-740, Oct. 2001, and Ord. #03-771, Sept. 2003; and replaced by Ord. #05-791, May 2005)



## CHAPTER 4

### SEWER SERVICE OUTSIDE CORPORATE LIMITS

#### SECTION

18-401. Policies applicable to sewer service.

**18-401. Policies applicable to sewer service.** (1) When city sewer services are sought for property contiguous to the existing city limits which is of sufficient size and configuration to merit its immediate annexation, the annexation of that property to the city shall be a condition of its receiving city sewer service.

(2) An application for city sewer service to property not meriting immediate annexation will only be considered if the application is for property located in the area which is designated as the urban growth area pursuant to the provisions of Public Chapter 1101.

(3) An application for city sewer to service property located in the city's urban growth area will only be considered under circumstances which will allow the design, installation, and operation of the sewer facilities to serve that property to be in accordance with applicable city ordinances, codes, regulations, standards and policies, all as if such property were within the city.

(4) When city sewer service is sought for property outside the city limits, same may be granted only upon approval by motion of the board of mayor and aldermen. In the event it is decided that any such application should be granted, the board of mayor and aldermen may attach conditions to the granting of such application as are deemed advisable under the circumstances surrounding that application. The conditions attached shall include the execution by the owners and occupants of the property of an outside utility agreement which is deemed acceptable and approved by the board of mayor and aldermen.

(5) In addition to compliance with the policies enumerated above, the board of mayor and aldermen will not normally approve an outside utility agreement for sewer service unless the following additional conditions have been satisfied or agreed to in conjunction with said agreement by all owners and occupants of the property for which such service is to be provided:

(a) The city shall be provided an accurate legal description and the names of all owners and occupants of the property;

(b) The city shall be provided a binding commitment by the owners of the property that all lines and facilities for such service will be completed to city standards in accordance with all city ordinances and regulations relating to installation and costs; that all costs involved in providing the lines and other facilities required for such service will be paid in full by the owners of the property; and that ownership of all main lines will vest in the city upon their completion and acceptance by the city;

(c) The city shall be provided a bill of sale transferring the ownership of all main lines constructed for such service to the city immediately upon their completion and acceptance by the city;

(d) The city shall be provided with easements satisfactory to allow entry upon private property for maintenance and repair of all main lines constructed for such service which are not located within public rights of way, which easements shall be provided immediately upon completion of said main lines;

(e) The city shall be provided accurate as-builts of all lines and facilities constructed for such service immediately upon their completion and acceptance by the city;

(f) The city shall be provided a bond issued by a corporate surety authorized to do business in the State of Tennessee to insure the successful operation of all lines and facilities constructed for such service for a period of two (2) years from the date service is commenced in such form that performance thereunder by the surety may be directly required by the city;

(g) The city shall be provided a binding commitment by the owners and occupants of the property to pay all connection fees and charges prescribed by city ordinances at the time of connection and all regular monthly service charges and outside utility surcharges prescribed by city ordinances during the period of service;

(h) The city shall be provided a binding commitment by the owners and occupants to provide such documents and take such steps as may be required by the city ordinance or administration or otherwise to insure that all the board of mayor and aldermen's policies and conditions relative to any grant of utilities outside the city limits will be complied with by all existing and future owners and occupants of the property served under penalty of cessation of such service, injunctive relief against noncompliance and any other legal or equitable remedy allowed by law. (As added by Ord. #99-721, Sept. 1999)

## **TITLE 19**

### **ELECTRICITY AND GAS**

#### **CHAPTER**

1. ELECTRICITY, WATERWORKS, AND SEWERAGE.
2. GAS.

#### **CHAPTER 1**

### **ELECTRICITY, WATERWORKS, AND SEWERAGE**<sup>1</sup>

#### **SECTION**

- 19-101. Electric plant defined.
- 19-102. Management of electric plant, waterworks, and sewerage works.
- 19-103. Management.
- 19-104. Accounting and bookkeeping.
- 19-105. Rates and charges.
- 19-106. Flood precautions.

**19-101. Electric plant defined.** The term "electric plant" shall be understood as defined by Tennessee Code Annotated, § 7-52-102(3). (1978 Code, § 13-101)

**19-102. Management of electric plant, waterworks, and sewerage works.** The Board of Mayor and Aldermen of the City of Sparta shall be the supervisory body maintaining the powers of control, improvement, operation and maintenance of the city's electric plant, waterworks, and sewerage works, pursuant to the powers and duties vested in the supervisory body of said plant and works by the laws of Tennessee, including but not limited to the provisions of the Tennessee Municipal Electric Plant Act of 1935, at Tennessee Code Annotated, title 7, chapter 52. (1978 Code, § 13-102)

**19-103. Management.** The city administrator shall serve as manager of the electric plant, waterworks and sewerage works, and shall have the powers, duties and responsibilities vested in the superintendent of said facilities

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<sup>1</sup>Municipal code reference

Building, utility, etc. codes: title 12.

by the laws referred to in § 19-102. (1978 Code, § 13-103, as replaced by Ord. #06-817, Nov. 2007)

**19-104. Accounting and bookkeeping.** Separate books and accounts shall be maintained for the electric plant and for the waterworks and sewerage works, and due and proper allocation shall be made of all expenses, revenues and property valuations. (1978 Code, § 13-104)

**19-105. Rates and charges.** (1) The board of mayor and aldermen shall have jurisdiction over the setting of rates and charges for electricity and associated services rendered by the electric plant, subject to the provisions of the laws of Tennessee referenced hereinabove and the power supply contract between the City of Sparta and the Tennessee Valley Authority.

(2) The board of mayor and aldermen shall have jurisdiction over the setting of rates and charges for water, sewerage service, and other associated services rendered by the waterworks and sewerage works, subject to the laws of Tennessee referenced hereinabove. (1978 Code, § 13-105)

**19-106. Flood precautions.** The water and sewer department shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. (1978 Code, § 13-106)

## CHAPTER 2

### GAS<sup>1</sup>

#### SECTION

19-201. To be furnished under franchise.

**19-201. To be furnished under franchise.** Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.<sup>2</sup>

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<sup>1</sup>Municipal code reference  
Gas code: title 12.

<sup>2</sup>The agreements are of record in the office of the city recorder.

**TITLE 20****MISCELLANEOUS****CHAPTER****1. FAIR HOUSING REGULATIONS.****CHAPTER 1****FAIR HOUSING REGULATIONS****SECTION**

20-101. Definitions.

20-102. Unlawful acts.

20-103. Religious organizations.

20-104. Membership in real estate organizations.

20-105. Public information.

20-106. Enforcement.

20-107. Exhaustion of remedies.

**20-101. Definitions.** Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location of any such building.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trust, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (1978 Code, § 4-701)

**20-102. Unlawful acts.** Subject to the exceptions hereinafter set out, it shall be unlawful for any person to do any of the following acts:

(1) To refuse to sell or rent after the making of a bona fide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make

unavailable or deny a dwelling to any person because of race, color, religion, national origin, or sex.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, national origin, or sex.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, or sex.

(4) To represent to any person because of race, color, religion, national origin, or sex that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, or sex. (1978 Code, § 4-702)

**20-103. Religious organizations.** Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, or sex. (1978 Code, § 4-703)

**20-104. Membership in real estate organizations.** It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation on account of race, color, religion, national origin, or sex. (1978 Code, § 4-704)

**20-105. Public information.** The Office of Community Development (hereby referred to as the office) is authorized and directed to undertake such educational and conciliatory activities as in its judgment will further the purposes of this chapter. It may call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and any suggested means of implementing it. The office shall further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate city officials on matters of enforcement. (1978 Code, § 4-705)

**20-106. Enforcement.** Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the Director of the Office of Community Development. A complaint shall be filed within 180 days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the office. Upon receipt of a complaint the office shall promptly investigate it and shall complete its investigation within fifteen (15) days. Included as a part of said investigation shall be official notification to the Department of Housing and Urban Development. If the Director of the Office of Community Development finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with violation of this chapter refuses to furnish information to said office, the office may request the city attorney to prosecute an action in the city court against the person charged in the complaint. Such request shall be in writing.

Upon receiving such written request and with the assistance of the aggrieved person and said office, within fifteen (15) days, after receiving such request the city attorney shall be prepared to prosecute an action in the city court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (1978 Code, § 4-706)

**20-107. Exhaustion of remedies.** Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein; nor prevent any such person from seeking relief at any time under the Federal Civil Rights Acts or other applicable legal provisions. (1978 Code, § 4-707)



**APPENDIX A**  
**ENFORCEMENT RESPONSE PLAN**

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ENFORCEMENT RESPONSE PLAN  
SPARTA, TENNESSEE

I. INTRODUCTION

A. Regulations

The City of Sparta, Tennessee, has an approved Industrial Pretreatment Program to protect the Publicly Owned Treatment Works (POTWs) and implement specific enforcement procedures. U. S. Environmental Protection Agency (EPA) has required that all POTWs with pretreatment programs develop and implement an Enforcement Response Plan (ERP) as part of the pretreatment program. The statutory requirements for the ERP are contained in the Federal Register (40 CFR 403).

B. Personnel

The personnel available for taking enforcement action, by title, in the case of instances of noncompliance are as follows:

- (1) Person responsible for receiving self-monitoring reports and determining compliance: **Pretreatment Coordinator**
- (2) Person responsible for providing legal assistance: **City Attorney**
- (3) Person responsible for initiation of enforcement actions: **Pretreatment Coordinator**
- (4) Person responsible for performing monitoring and inspections for the City: **Pretreatment Coordinator**
- (5) Person designated as Pretreatment Coordinator that can sign reports required by the Tennessee Department of Environment and Conservation and can represent Sparta in meetings or correspondence: **Pretreatment Coordinator**

II. PROVISIONS FOR ENFORCEMENT IN EXISTING SEWER USE ORDINANCE

The enforcement Provisions in the current officially approved Sewer Use Ordinance section 18-109 including any adopted revisions, are included herein. The major provisions are as follows:

Enforcement  
Affirmative Defenses

### III. ENFORCEMENT RESPONSE GUIDE

The centerpiece of the City of Sparta Enforcement Response Plan (ERP) is the Enforcement Response Guide. This guide is a matrix which describes violations and indicates a range of appropriate enforcement options. The Enforcement Response Guide serves two main functions:

- (1) Defines the range of appropriate enforcement actions based on the nature and severity of the violation and other relevant factors.
- (2) Promotes consistent and timely use of enforcement remedies.

The Enforcement Response Guide designates several alternative enforcement options for each type (or pattern) of non-compliance. Thus developed, City personnel who detect non-compliance need only select an appropriate response from the short list of enforcement options indicated by the matrix. There are a number of factors to consider when selecting a response from among the options, including:

- Good faith of the user,
- Compliance history of the user,
- Previous success of enforcement action taken against the particular user,
- Violations effect on the receiving waters, and
- Violations effect on the POTW.

The Enforcement Response Guide matrix identifies types of violations, indicates initial and follow-up responses, and designates personnel and time frames for those responses. Once the Enforcement Response Guide has been adopted by the City of Sparta, the City should periodically assess its effectiveness in accomplishing pretreatment program goals. This review should be conducted in light of the primary objectives for developing an Enforcement Response Guide, namely:

- To insure that the violators return to compliance as quickly as possible,
- To penalize non-compliant users for pretreatment violations,
- To deter future non-compliance,

To recover any additional expenses incurred that can be attributed to non-compliance.

The terms and abbreviations in the Enforcement Response Guide Matrix are described below:

AO	:	Administrative Order
CA	:	City Attorney
Civil	:	Civil action against the IU seeking equitable relief, monetary penalties, and actual damages.
Criminal Prosecution	:	Pursuing punitive measures against an individual and/or organization through a court of law.
Fine	:	Monetary penalty assessed by control authority officials. Fines should be assessed by the Pretreatment Coordinator and/or City Administrator.
IU	:	Industrial User.
Manager	:	City Administrator
NOV	:	Notice of Violation.
POTW	:	Publicly owned treatment works.
PC	:	Pretreatment Coordinator
S	:	Superintendent of wastewater facility.
Show Cause	:	Formal hearing requiring the IU to appear and demonstrate why the control authority should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

#### IV. ENFORCEMENT RESPONSES

##### A. Description of Enforcement Responses

The City of Sparta begins its enforcement process by identifying an industrial user's violation. Once a violation is identified, the City of Sparta must determine whether the violation should be considered significant or non-significant.

The Enforcement Response Guide lists seven types of enforcement responses available to the City of Sparta. The seven types of enforcement responses are listed below and are described further herein:

Notice of Violation,  
Administrative Orders,  
Administrative Penalties,  
Civil Actions,  
Criminal Prosecution,  
Termination of Permit or Sewer Service, and  
Supplemental Enforcement Responses.

(1) Notice of Violation

The notice of violation is an official communication from the City of Sparta to the noncompliant industrial user which informs the user that a sewer use ordinance or IU permit violation has occurred. The NOV will be used in response to a non-significant violation. The NOV may be used in a case of significant noncompliance prior to issuing an AO or pursuing judicial remedies.

Whenever the manager finds that any industrial user has violated or is violating this chapter, or a wastewater permit or order issued there under, the manager may serve upon said user written notice of the violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the manager. 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.

(2) Administrative Orders

When the manager finds that an industrial user has violated or continues to violate the ordinance or a permit or order issued there under, the manager may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

(3) Administrative Penalties

Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined not less than fifty dollars (\$50.00) and not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or be continued shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the city shall have such other collection remedies as it has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the city to reconsider the fine within ten (10) days of being notified of the fine. Where the manager believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user.

(4) Civil Action

Any industrial user who has violated or continues to violate this chapter or any order or permit hereunder shall be liable to the city for a civil penalty of not less than \$100.00 nor more than \$1,000.00, plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the city may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

The city shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

(5) Criminal Prosecution

Violations-generally. Any industrial user who willfully or negligently violates any provision of this chapter or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed \$1,000 per violation per day or imprisonment for not more than one year, or both.

In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000 per violation per day, or imprisonment for not more than three years, or both.

(6) Termination of Sewer Service

Termination of service is the revocation of an industrial user's privilege to discharge industrial wastewater into the City of Sparta's sewer system. Termination of service may be accomplished by physical severance of the system, by issuance of an AO which compels the user to terminate its discharge, or by a court ruling.

Termination of service may result where it is necessary to stop an actual or threatened discharge presenting, or causing, an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment. Where repeated violation of the sewer use ordinance or IU permit has occurred and prior enforcement has failed to bring the industry back into compliance, termination of sewer service may be necessary.

(7) Supplemental Enforcement Responses

Industrial users which have had significant violations shall be published annually in the largest local newspaper.

Where an IU has violated or continues to violate the provisions of this ordinance or the IU permit, water service to the industrial user may be severed and service will only recommence (at the user's expense) after it has satisfactorily demonstrated its ability to comply.

**B. Procedures for Implementation**

The Enforcement Response Guide indicates who is responsible for determining a violation has occurred and what type of enforcement response is required (refer to the Enforcement Response Guide). For purposes of reiteration, the type of violations and person responsible for determining that a violation has occurred are summarized below:

<b>IU Violations</b>	<b>Person responsible for determining that a violation has occurred, and type of enforcement</b>
Unauthorized Discharges	Pretreatment Coordinator Superintendent Manager (City Administrator) City Attorney
Discharge Limit Violation	Pretreatment Coordinator Superintendent Manager (City Administrator) City Attorney
Monitoring and Reporting Violations	Pretreatment Coordinator Superintendent Manager (City Administrator)
Other Permit Violations	Superintendent, Pretreatment Coordinator
Violations detected during site visits	Superintendent, Pretreatment Coordinator

The time frames for determining that a violation has occurred and for issuing the requisite enforcement responses are summarized below:

- (1) All violations will be identified and documented within five (5) days of receiving compliance data.
- (2) Initial enforcement responses, involving contact with the industrial user and requesting information on corrective or preventative action(s), will occur within fifteen (15) days of violation detection.



- (3) Follow up actions for continuing or recurring violations will be taken within sixty (60) days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- (4) Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- (5) All violations meeting the criteria for significant non-compliance will be addressed with an enforceable order within thirty (30) days of the identification of significant non-compliance.

C. Method of Tracking Enforcement

As part of the Enforcement Response Plan, a tracking system is identified to assist the City of Sparta in determining that a violation has occurred. The method of tracking enforcement is summarized below:

<b>IU Violations</b>	<b>Tracking Method</b>
Unauthorized Discharges	Industrial User Survey Field Monitoring IU Inspection POTW Sampling
Discharge Limit Violation	IU Inspection and Sampling POTW Sampling
Monitoring and Reporting Violations	IU Inspection and Sampling IU Survey Field Monitoring
Other Permit Violations	Industrial User Survey Field Monitoring IU Inspection and Sampling POTW Sampling Collection System Monitoring
Violations detected during site visits	IU Inspection and Sampling

D. Fines and/or Penalties

A guideline for the dollar amounts that can be assessed for each type of offense or for repeat offenses are summarized below. These can include administrative fines, civil penalties and/or criminal penalties.

<b>Noncompliance</b>	<b>Nature of Violation</b>	<b>Fines</b>
Unpermitted Discharge	IU unaware, no harm to POTW	No Fine
	IU unaware, harm to POTW	\$50.00/ Violation
	Failure to apply after Notice	\$500.00
Exceedance of Local or Federal Standard (Permit Limit)	Isolated, no harm to POTW	No Fine
	Recurring, no harm to POTW	\$500.00/ Violation
	Recurring (harm)	\$1000.00/ Violation
<b>Noncompliance</b>	<b>Nature of Violation</b>	<b>Fines</b>
Monitoring and Reporting Violation	Insignificant	No Fine
	Significant Report over 45 days late	\$50.00/per day
	No Report	\$500.00
	Failure to Report Spill (harm)	\$1000.00
	Failure to Monitor as required in Permit	No Fine
	Recurring failure to monitor after NOV	\$500.00
	Failure to install Monitoring Equipment	\$50.00/per day

<b>Noncompliance</b>	<b>Nature of Violation</b>	<b>Fines</b>
	Falsification of Data	\$1000.00
	Missed compliance milestone by less than 30 days; or more than 30 days (with good cause)	\$50.00/per day
	Missed compliance milestone by over 30 days without good cause	\$500.00/per day
Illegal Discharge	Unaware, no harm	No Fine
	Recurring	\$50.00/per day
Inadequate Record Keeping	Recurring	\$500.00
Failure to Report Additional Monitoring	Recurring	\$500.00
Waste streams prediluted in lieu of treatment	Initial Violation	\$500.00/per day
	Recurring	\$500.00/per day
<b>Noncompliance</b>	<b>Nature of Violation</b>	<b>Fines</b>
Failure to mitigate noncompliance or halt production	Results in harm to sewer system	\$1000.00
Failure to properly operate and maintain pretreatment facility	Results in harm to sewer system	\$500.00

## **ENFORCEMENT**

### **(1) Notice of Violation**

Whenever the Superintendent finds that any industrial user has violated or is violating this Ordinance, or a wastewater permit or order issued thereunder, the Manager may serve upon said user written notice of the violation. Within ten

(10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Manager. 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.

## **(2) Administrative Order**

When the Superintendent finds that an industrial user has violated or continues to violate the ordinance or a permit or order issued there under, the Manager may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated.

Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

## **(3) Show Cause Hearing**

When the Manager finds that an industrial user has violated this ordinance or permit, he may order any industrial user which causes or contributes to a violation of this Ordinance or wastewater permit or order issued hereunder, to show cause before the Mayor and City Board 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, and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

## **(4) Administrative Penalties**

Notwithstanding any other section of this Ordinance, any user who is found to have violated any provision of this Ordinance, or permits and orders issued hereunder, shall be fined not less than fifty dollars (\$50.00) and not exceed one thousand dollars (\$1000.00) per violation. Each day on which noncompliance shall occur or be continued shall be deemed a separate and distinct violation.

Such assessments may be added to the user's next scheduled sewer service charge and the City shall have such other collection remedies as it has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the City to reconsider the fine within ten (10) days of being notified of the fine. Where the Manager believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user.

#### **(5) Emergency Suspensions**

When the Superintendent finds that an individual user has violated this Ordinance or permit, the Manager may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangered to health or welfare or persons, the POTW, or the environment.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate this contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Manager shall take steps as deemed necessary, including immediate severance of the sewer connection to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Manager shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in Paragraph (6) are initiated against the user.

An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Manager prior to the date service is reestablished.

#### **(6) Termination of Permit**

Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the City of Sparta. Any user who violates the following conditions of this Ordinance or of a wastewater discharge permit or order, or any State or Federal law, is subject to permit termination:

- a) Violation of 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 constituents and characteristics, and
- d) Refusal of reasonable access to user's premises for the purpose of inspection, monitoring, or sampling.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under Paragraph (3) of this Article why the proposed action should not be taken.

#### **(7) Judicial Remedies**

If any person discharges sewage, industrial wastes, or other wastes into wastewater disposal system contrary to the provisions of this Ordinance or any order or permit issued hereunder, the Manager through the City Attorney may commence an action for appropriate legal and/or equitable relief in the Chancery Court of White County.

#### **(8) Civil Penalties**

Any industrial user who has violated or continues to violate this Ordinance or any order or permit hereunder shall be liable to the City for a civil penalty of not less than \$100.00 nor more than \$1000.00, plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the City may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

The City shall petition the Court to impose, assess, and recover such sums. In determining amount of liability, the Court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

#### **(9) Criminal Prosecution**

##### ***a) Violations-Generally***

Any industrial user who willfully or negligently violates any provision of this Ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed \$1000.00 per violation per day or imprisonment for not more than a year, or both.

In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000 per violation per day, or imprisonment for not more than three years, or both.

b) *Falsifying Information*

Any industrial user knowingly makes false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Ordinance, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of not more than \$1000.00 per violation per day or imprisonment for not more than one year, or both.

a) *Annual Publication of Significant Violations*

When the Superintendent finds that an industrial user has violated this Ordinance or permit, the Manager shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in significant violation with any provisions of this Ordinance or any permit or order issued hereunder during the period since the previous publication.

b) *Water Supply Severance*

Whenever an industrial user has violated or continues to violate the provisions of this Ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence (at the user's expense) after it has satisfactorily demonstrated its ability to comply.

## **AFFIRMITIVE DEFENSES**

### **(1) Treatment Upsets**

Any industrial user which experiences an upset in operations that places it in a temporary state of noncompliance which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation shall inform the Manager thereof immediately upon becoming aware of the upset. Where such

information is given orally, a written report thereof shall be filed by the user within five (5) days. The report shall contain:

- a) A description of the upset, its cause(s), and impact on the discharger's compliance status  
Attachment A: Proposed Revisions to Sewer Use Ordinance Enforcement Provisions
- b) The duration of noncompliance, including exact dates and times of noncompliance and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.
- c) All steps taken or planned to reduce, eliminate, and prevent reoccurrence of such an upset.

**Attachment A: Proposed Revisions to Sewer Use Ordinance Enforcement Provisions**

An industrial user which complies with the notification provisions of this Paragraph in a timely manner shall have an affirmative defense to any enforcement action brought by the Manager for any noncompliance with this Ordinance, or an order or permit issued hereunder which arises out of violations attributable to, and alleged to have occurred, during the period of the documented and verified upset.

**(2) Treatment Bypasses**

A bypass of the treatment system is prohibited unless all of the following conditions are met:

- a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
- b) There was no feasible alternative to the bypass including the use of auxiliary treatment or retention of the wastewater.
- c) The industrial user properly notified the Manager as described below.

Industrial users must provide immediate notice to the Manager upon discovery of an unanticipated bypass. If necessary, the Manager may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass and the steps being taken to prevent its reoccurrence.

An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to insure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the Manager at least ten (10) days in advance. The Manager may only approve the anticipated



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bypass if the circumstances satisfy those set forth above. (as added by  
Ord. #08-832, Sept. 2008)

## APPENDIX B

# ENFORCEMENT RESPONSE GUIDE MATRIX

## UNAUTHORIZED DISCHARGES (No Permit)

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
1. Unpermitted discharge	IU unaware of requirement. No harm to POTW or environment.	Phone call; NOV with application form.	PC	None
	IU unaware of requirement. Harm to POTW.	-AO with fine -Civil Action	PC CA	\$50.00/ violation
	Failure to apply continues after notice by POTW.	-Civil action with fine -Criminal prosecution -Terminate service	CA CA PC	\$500.00
2. Non-permitted discharge (failure to renew)	IU has not submitted application within 10 days of due date.	Phone call; NOV.	PC	None

## DISCHARGE LIMIT VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
1. Exceedance of local or federal standards (permit limit)	Isolated, not significant.	Phone call; NOV.	PC	None
	Isolated, significant. (No harm)	AO to develop spill prevention plan and fine.	PC CA	Up to \$500.00
	Isolated harm to POTW or environment.	-Show cause hearing. -Civil action	PC CA	Actual damages
	Recurring, no harm to POTW or environment.	-AO with fine	PC	\$500.00/ violation
	Recurring, significant (harm)	-AO with fine -Show cause hearing -Civil action -Terminate service	PC PC CA PC	\$1000.00 \$1000.00 \$1000.00 \$1000.00

## MONITORING AND REPORTING VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
1. Reporting violation.	Report is improperly signed or certified.	Phone call of NOV.	S/PC	None
	Report is improperly signed or certified after notice by POTW.	-AO -Show cause hearing	PC PC	None None
	Isolated, not significant (e.g. 10 days late)	Phone call; NOV.	S/PC	None
	Significant (e.g. report 60 days or more late).	AO to submit with fine per additional day. -AO with fine -Show cause hearing -Civil action	PC PC CA	\$50.00/day
	Failure to report spill or changed discharge (results in harm).	NOV	PC	\$1000.00
	Failure to report spill or changed discharge (results in harm).	-AO with fine -Civil action	PC CA	\$1000.00
	Repeated failure to report spills.	-Show cause hearing -Terminate service	PC PC	As noted above

## MONITORING AND REPORTING VIOLATIONS (continued)

	Falsification.	-Criminal prosecution -Fine, terminate service	CA PC	\$1000.00
2.	Failure to monitor correctly.	Failure to monitor all pollutants as required by permit.	NOV or AO	None
	Recurring failure to monitor.	-AO with fine. -Civil action	PC CA	\$500.00
3.	Improper sampling.	-Criminal prosecution -Terminate service	CA PC	Punitive by court
	Evidence of intent.	-NOV	S/PC	None
	Delay of less than 30 days.	AO to install with fine for each additional day.	PC	\$50.00/day
	Delay of 30 days or more.	-Civil action -Criminal prosecution -Terminate service	CA CA PC	\$50.00/day
	Recurring, violation of AO.			
	Missed milestone by less than 30 days or will not affect final milestone.			
5.	Compliance schedules (in permit).	NOV or AO with fine.	PC	\$50.00/day

## MONITORING AND REPORTING VIOLATIONS (continued)

Missed milestone by more than 30 days, or will affect milestone (good cause for delay).	AO with fine.	PC	\$50.00/day
Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay).	-Show cause hearing -Civil action -Terminate service	PC CA PC	\$500.00/ day
Recurring violation or violation of schedule in AO.	-Civil action -Criminal prosecution -Terminate service	CA CA	Actual damages

## OTHER PERMIT VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
Waste streams are diluted in lieu of 1. treatment.	Initial violation.	AO with fine.	PC	\$500.00/ day
	Recurring.	-Show cause hearing -Terminate service	PC PC	\$500.00/ day

**OTHER PERMIT VIOLATIONS (continued)**

2. Failure to mitigate noncompliance or halt production.	Does not result in harm.	NOV	PC	None
	Does result in harm.	-AO with fine -Civil action	PC CA	\$1000.00
3. Failure to properly operate and maintain pretreatment facility	Does not result in harm.	NOV	S/PC	None
	Does result in harm.	-AO with fine -Civil action	PC CA	\$500.00

**VIOLATIONS DETECTED DURING SITE VISITS**

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
1. Entry denial	Entry denied or consent withdrawn, copies of records denied.	Obtain warrant and return to IU	S/PC	None
	Unaware of discharge and no harm to POTW or the environment.	AO	PC	None
2. Illegal discharge	Discharge causes harm or evidence of intent/negligence	-Civil action -Criminal prosecution	CA CA	\$50.00/day

# VIOLATIONS DETECTED DURING SITE VISITS (continued)

	Recurring violation of AO.	Terminate service	PC	\$50.00/day
3. Improper sampling.	Unintentional sampling at incorrect location.	NOV	S/PC	None
	Unintentionally using incorrect sample type.	NOV	S/PC	None
	Unintentionally using incorrect sample collection techniques.	NOV	S/PC	None
	Inspector finds files incomplete to missing (no evidence of intent).	NOV	S/PC	None
4. Inadequate record keeping.	Recurring	AO with fine.	PC	\$500.00
5. Failure to report additional monitoring.	Inspection finds additional files.	NOV	S/PC	None
	Recurring.	AO with fine.	PC	\$500.00



## APPENDIX C

**Fats, Oils & Grease (FOG) Management Policy****Basis:**

The City of Sparta, TN Fats, Oils & Grease (FOG) Management Policy is based on the City of Sparta Sewer Use Ordinance Title 18, and United States Environmental Protection Agency (Region IV) Capacity, Management, Operation and Maintenance Policy.

**Scope & Purpose:**

To prevent sanitary and combined sewer system blockages, obstructions and overflows due to the contribution and accumulation of fats, oils and grease (FOG) from food service establishments, commercial facilities and industrial facilities.

**Definitions:**

1. Fats, Oils, & Grease (FOG): Organic polar compounds derived from animal and/or plant sources. FOG may be referred to as "grease" or "greases" in this section.
2. Food Service Establishment (FSE): Any establishment, business or facility engaged in preparing, serving or making food available for consumption. These facilities include: restaurants, cafeterias, markets, grocery stores, hospitals, nursing homes, retirement centers, prisons, schools, churches, camps, caterers, and manufacturers. Single family residences are not a FSE, however, multi-residential facilities may be considered a FSE at the discretion of the City or Manager. Food Service Establishments will be classified as follows:
  - Class 1:** Deli - engaged in the sale of cold-cut and microwaved sandwiches/subs with no frying or grilling on site, Ice Cream shops and beverage bars as defined by NAICS 72213, Mobile Food Vendors as defined by NAICS 722330
  - Class 2:** Limited-Service Restaurants (a.k.a. Fast Food Facilities) as defined by NAICS 722211 and Caterers as defined by NAICS 722320
  - Class 3:** Full Service Restaurants as defined by NAICS 722110
  - Class 4:** Buffet and Cafeteria Facilities as defined by NAICS 72212
  - Class 5:** Institutions (Schools, Hospitals, Prisons, etc) as defined by NAICS 722310 but not to exclude self-run operations.

3. (Brown) Grease: Fats, oils and grease that is discharged to the grease control equipment, or is from kitchen or food prep wastewater.
4. (Yellow) Grease: Fats, oils and grease that has not been in contact or contaminated from other sources (water, wastewater, solid waste, etc ...) and can be recycled.
5. Grease Control Equipment (GCE): A device for separating and retaining wastewater FOG prior to wastewater exiting the FSE and entering the City of Sparta sewer system. The GCE is so constructed as to separate and trap or hold fats, oils and grease substances from entering the City of Sparta sewer system. Devices include grease interceptors, grease traps, or other devices approved by the Director.
6. Grease Interceptor: Grease Control Equipment identified as a large tank, usually 1,000 gallon to 2,000 gallon capacity with proper inlet and outlet Ts, that provides FOG control for a FSE. Grease interceptors will be located outside the FSE, unless a variance request has been granted.
7. Grease Trap: Grease Control Equipment identified as an "under the sink" trap, a small container with baffles, or a floor trap. For a FSE approved to install a grease trap, the minimum size requirement is the equivalent of a 20-gallon per minute/40 pound capacity trap. All grease traps will have flow control restrictor and a vent pipe.
8. Grease Recycle Container: Container used for the storage of yellow grease.
9. NAICS - North American Industry Classification System. The website is found at: (<http://www.census.gov/epcd/www/naics.html>)
10. Tee or T (Influent & Effluent): A T-shaped pipe extending from the ground surface below grade into the grease interceptor to a depth allowing recovery (discharge) of the water layer located under the layer of FOG. Influent & Effluent T's are recommended to be made of PVC or equivalent material, and extend to within 12" to 15" of the bottom of the interceptor.
11. (Black) Water: Wastewater containing human waste, from sanitary fixtures such as toilets and urinals.
12. (Gray) Water: Refers to all other wastewater other than black water as defined in this section.

### **General Requirements:**

1. All existing Food Service Establishments (FSEs) are required to have grease control equipment (GCE) installed, maintained and operating properly.
2. All FSEs will be required to maintain records of cleaning and maintenance of GCE. GCE maintenance records include, at a minimum, the date of cleaning/maintenance, company or person conducting the cleaning/maintenance, amount or volume of grease wastewater removed. A grease waste hauler completed manifest will meet this requirement.
3. GCE maintenance records will be available at the FSE premises so they can be provided to City of Sparta personnel or their representative, and/or the Health Department. The FSE shall maintain GCE maintenance records for three (3) years.
4. No FSE will discharge oil and grease in concentrations that exceed the City of Sparta instantaneous grab limit for oil and grease.
5. All FSEs are required to dispose of yellow grease in an approved container, where contents will not be discharged to any storm water grate, drain or conveyance. Yellow grease, or any oils or grease, poured or discharged into the FSE sewer lines or City of Sparta sewer system is a violation of this ordinance.
6. Owners of Commercial Property will be held responsible for wastewater discharges from leaseholder on their property.

**New Food Service Establishment, Upgrading of Existing Food Service Establishment or Change of Ownership of Existing Food Service Establishment Requirement:** Any new FSE, upgrading of an existing FSE or change of ownership of existing FSE will be required to install and maintain a grease interceptor. Food service establishments in one of these categories must submit a FOG plan to the City of Sparta for approval. The FOG plan includes identification of all cooking and food preparation equipment (i.e. fryers, grills, woks, etc ... ); the number and size of dishwashers, sinks, floor drains, and other plumbing fixtures; type of FSE classification; type of food to be served; and plans for the grease interceptor dimensions and location. The City of Sparta will review the FOG plan with the grease interceptor sizing and approve, or make changes as necessary, to aid in the protection of a FOG discharge from the FSE.

Existing Food Service Establishments will be phased in to compliance through their FSE permit and a Compliance Schedule. The Compliance Schedule will be an Agreed Schedule, with all Food Service Establishments coming into compliance with this policy no later than **May 1, 2008.**

Variance to Grease Interceptor Installation: At the discretion of the Manager, some FSEs may receive a variance from the required installation of a grease interceptor.

### **Grease Control Equipment Sizing:**

**Minimum** acceptable size of grease control equipment for each FSE Classification will be as follows:

- Class 1:** Deli, Ice Cream shops, Beverage Bars, Mobil Food Vendors- 20 gallons per minute/40 pound Grease Trap
- Class 2:** Limited-Service Restaurants 1Caterers -1,000 gallon Grease Interceptor
- Class 3:** Full Service Restaurants- 1,000 gallon Grease Interceptor
- Class 4:** Buffet and Cafeteria Facilities- 1,500 gallon Grease Interceptor
- Class 5:** Institutions (Schools, Hospitals, Prisons, etc)- 2,000 gallon Grease Interceptor

To calculate the appropriate size GCE, the following formula will be used:  
 Fixture Units (total) x Facility type multiplier x 36 (retention time) =Size of Interceptor (gals.)

Should the size of the interceptor calculate to 499 gallons or less with the formula above:

Size of interceptor (gals.) x 0.75 (max. cap. of sink) = Flow (gpm) x hours (work day) = Acceptable Flow rate with retention time

### **Grease Control Equipment Specifications**

Grease Control Equipment must remove fats, oils, & grease at or below the City of Sparta Sewer Use Ordinance Limit for Oil and Grease. Failure to comply will require enforcement action in accordance with the City of Sparta Food Service Establishment Enforcement Response Guide.

Grease traps must have the Plumbing Drainage Institute certification. The minimum acceptable size is rated at 20 gpm / 40lbs. All grease traps will be installed as per manufacturer specifications, which include the flow restrictor and venting prior to the discharge entering the grease trap.

### **Grease Interceptors**

#### **Piping Design**

1. The inlet and outlet piping shall have 2-way cleanout tees installed
2. The inlet piping shall enter the receiving chamber 2 1/2" above the invert of the outlet piping.

3. On the inlet pipe, inside the receiving chamber, a sanitary tee of the same size pipe in the vertical position with the top unplugged shall be provided as a turndown. To provide air circulation and to prevent "air lock", a pipe (nipple) installed in the top tee shall extend to a minimum of 6" clearance from the interceptor ceiling, but not less than the inlet pipe diameter. A pipe installed in the bottom of the tee shall extend to a point of  $\frac{2}{3}$  the depth of the tank. *See illustration.*
4. The outlet piping shall be no smaller than the inlet piping, but in no case smaller than 4" ID.
5. The outlet piping shall extend to 12" above the floor of the interceptor and shall be made of a noncollapsible material.
6. The outlet piping shall contain a tee installed vertically with a pipe (nipple) installed in the top of the tee to extend to a minimum of 6" clearance from the interceptor ceiling, but not less than the pipe diameter, with the top open. *See illustration.*

#### Baffles

1. The grease interceptor shall have a non-flexing (i.e. Concrete, steel, etc.) baffle the full width of the interceptor, sealed to the walls and the floor, and extend from the floor to within 6" of the ceiling. The baffle shall have an inverted 90 degree sweep fitting at least equal in diameter size to the inlet piping, but in no case less than 6" ID. The bottom of the sweep shall be placed in the vertical position in the inlet compartment 12" above the floor. The sweep shall rise to the horizontal portion, which shall extend through the baffle into the outlet compartment. The baffle wall shall be sealed to the sweep. *See illustration.*
2. The inlet compartment shall be  $\frac{2}{3}$  of the total liquid capacity with the outlet compartment at  $\frac{1}{3}$  liquid capacity of the interceptor.

#### Access Openings (Manholes)

1. Access to grease interceptors shall be provided by a minimum of 1 manhole per interceptor division (baffle chamber) and of 24-inch minimum dimensions terminating 1 inch above finished grade with cast iron frame and cover. An 8" thick concrete pad extending a minimum of 12" beyond the outside dimension of the manhole frame shall be provided. One manhole shall be located above the inlet tee hatch and the other manhole shall be located above the outlet tee hatch. A minimum of 24" of clear opening above each manhole access shall be maintained to facilitate maintenance, cleaning, pumping, and inspections.
2. Access openings shall be mechanically sealed and gas tight to contain odors and bacteria and to exclude vermin and ground water, in a manner that permits regular re-uses.
3. The manholes are to be accessible for inspection by the Department.

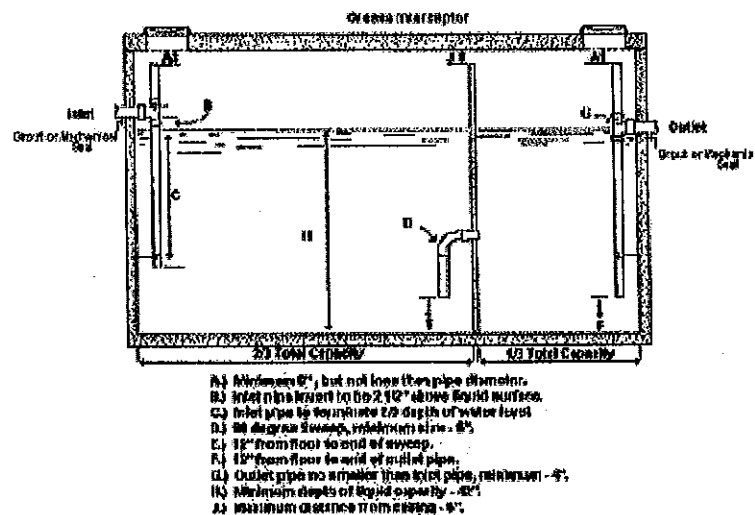
### Additional Requirements

**Water Tight** - Precast concrete grease interceptors shall be constructed to be watertight. A static water test shall be conducted by the installer and timed so as to permit verification through visual inspection by regulatory agent. The water test shall consist of plugging the outlet (and the inlet if necessary) and filling the tank(s) with water to the tank top a minimum of 24 hours before the inspection. The tank shall not lose water during this test period. Certification by the plumbing contractor shall be supplied to the City of Sparta prior to final approval of grease control equipment.

**Location** - Grease Control Equipment shall be located so as to be readily accessible for cleaning, maintenance, and inspections. They should be located close to the fixture(s) discharging the greasy wastestream.

**Responsibility** - Removal of the grease from the wastewater routed to a public or private sanitary system, is the responsibility of the user/owner.

**Construction Material** - Grease Interceptors shall be constructed of sound durable materials, not subject to excessive corrosion or decay, and shall be water and gas tight. Each interceptor shall be structurally designed to withstand any anticipated load to be placed on the interceptor (i.e. vehicular traffic in parking or driving areas).



### Grease Interceptor Cleaning/Maintenance Requirements

1. Grease Interceptor minimum size will be 1,000 gallon capacity, and maximum size will be 2,500 gallon capacity. If the FSE needs additional capacity, then grease interceptors will be installed in series.
2. Partial pump of interceptor contents or on-site pump & treatment of interceptor contents will not be allowed due to reintroduction of fats, oils and grease to the interceptor and pursuant to the Code Federal Regulation (CFR) § 403.5 (b) (8), which states "Specific prohibitions. In addition, the following pollutants shall not be introduced into a POTW: Any trucked or hauled pollutants, except at discharge points designated by the POTW".
3. Grease interceptors must be pumped-in-full when the total accumulations of surface FOG (including floating solids) and settled solids reaches twenty-five percent (25%) of the grease interceptor's overall liquid depth. This criterion is referred to as the "25 Percent Rule". At no time, shall the cleaning frequency exceed 90 days unless approved by the City of Sparta. Approval will be granted on a case by case situation with submittal by the FSE documenting proof of proposed frequency. Some existing FSEs in Class 2 through 5 will need to consider monthly pumping to meet this requirement.
4. Grease interceptor effluent-T will be inspected during cleaning and maintenance and the condition noted by the grease waste hauler's company or individual conducting the maintenance. Effluent-T's that are loose, defective, or not attached must be repaired or replaced immediately.
5. Grease interceptors must have access manholes over the influent-T and effluent-T for inspection and ease of cleaning/maintenance. Access manholes will be provided for all separate compartments of interceptors for complete cleaning (i.e. interceptor with two main baffles or three compartments will have access manholes at each compartment).

### Grease Trap Cleaning / Maintenance Requirements

1. **All** grease traps will have flow control restrictor and vented. Failure to have flow restrictor and venting will be considered a violation.
2. Grease Trap minimum size requirement is a 20 gallon per minute / 40 pound capacity trap.
3. Grease Traps will be cleaned of complete fats, oils, and grease and food solids at a minimum of every two (2) weeks, unless less cleaning frequency is authorized by the City of Sparta. If the combination of FOG and food solids content of the grease trap is greater than 50%, then the grease trap must be cleaned every week, or as frequently as needed to prevent 50% of capacity being taken from FOG and food solids.

4. Grease Trap waste should be sealed or placed in a container to prevent leachate from leaking, and then disposed.
5. Grease Trap waste should not be mixed with yellow grease in the grease recycle container.

### **Food Service Establishment FOG Permits and Inspections**

The City of Sparta may issue FOG permits to food service establishments to control FOG discharges to the Sparta sewer system, prevent obstruction and interference to the POTW, and prevent sanitary sewer overflows. Also, the City of Sparta, or their authorized representative, will conduct inspections of food service establishments for grease control equipment installation and maintenance, types of food served and preparation of food, impact to the Sparta sewer system, and review of best management practices. The City of Sparta, or their authorized representative, has the right to enter the food service establishments' premises to determine impacts to the City sewer system. The City of Sparta will conduct any additional monitoring of the food service establishment to determine compliance with the FOG management policy and the Sparta Sewer Use Ordinance Title 18.

### **Fees**

The City of Sparta may charge FOG permit, inspection or monitoring fees to the food service establishments to get reimbursement for the FOG program costs. The basis for fees is City of Sparta Sewer Use Ordinance Title 18, Section 18-111.

### **"Additives" Prohibition for use as Grease Management and Control**

1. Additives include but are not limited to products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes and bacteria.
2. At no time will additives be used just prior to under the sink or floor grease traps.
3. The use of additives is prohibited with the following exceptions:
  - a. Additives may be used to clean the FSE drain lines but only in such quantities that it will not cause fats, oil and grease to be discharged from the grease control equipment to the sewer system, or cause temporary breakdown of FOG that will later re-congeal in the downstream sewer system.
  - b. If the product used can be proven to contain 100% bacteria, with no other additives. Approval of the use of the product must come from the City and FSE must submit a full disclosure MSDS and certified sample results from the manufacturer of the product.



4. The use of approved additives will in no way be considered as a substitution to the maintenance procedures required herein.

### **Enforcement Action**

Enforcement Action may be taken against the FSE, but is not limited to, the following reasons: failure to clean or pump grease control equipment, failure to maintain grease control equipment including inspection and installation of properly functioning effluent-T and baffles, failure to install grease control equipment, failure to control FOG discharge from the FSE, contributing to a sewer line blockage or obstruction, contributing to a Sanitary Sewer Overflow, and use of additives in such quantities so that FOG is pushed downstream of the FSE.

#### **Fats, Oils and Grease blockage in downstream manhole from FSE:**

If FSE inspections and field investigations by City of Sparta, or their authorized representative, determine that any fats, oils and grease interference or blockage in the sewer system, a sewage pumping station, or the wastewater treatment plant is caused by a particular food service establishment, then that food service establishment shall reimburse the City of Sparta for all labor, equipment, supplies and disposal costs incurred by the City of Sparta to clean the interference or blockage. The charges will be added to the FSEs water/wastewater bill. Failure to reimburse the City of Sparta will result in termination of water service.

#### **FSE failure to maintain GCE after Notification or NOV due date:**

If a FSE fails to pump, clean or maintain their GCE after a Noncompliance Notification or Notice of Violation due date, the City of Sparta may chose to pump/clean the GCE to prevent additional FOG problems downstream. The FSE will be charged for the cost of pumping and maintaining the FSE's GCE at a rate of 1.5 times the cost to the City of Sparta. Mechanical failure of the GCE will be considered a violation of the City of Sparta Sewer Use Ordinance which pertains to the construction and maintenance of pretreatment facilities and subject to penalties of up to \$10,000/day for each day in violation.

#### **Penalties**

Penalties will be issued as per the City of Sparta, Tennessee FSE Enforcement Response Guide.

## APPENDIX D

## FOOD SERVICE ESTABLISHMENT ENFORCEMENT RESPONSE GUIDE

This Food Service Establishment Enforcement Response Guide (FSE-ERG) was developed to ensure a consistent response to all food service establishments that cause, or have the potential to cause, interference, obstruction, sanitary sewer overflows, bypasses, or stormwater inflow to the City of Sparta wastewater collection system and WWTP. Food Service Establishments are nondomestic users and are monitored by the City of Sparta Pretreatment Section. This FSE-ERG is intended to be used for food service establishments only. Refer to the City of Sparta Fats, Oils & Grease Management Policy for additional information on the City of Sparta FOG management program.

## SIGNIFICANT NONCOMPLIANCE OF WASTEWATER DISCHARGE LIMITS

The E.P.A. has defined "significant noncompliance" as violations that meet one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66%) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (2) Technical Review criteria (TRC) violations, defined here as those in which thirty-three (33%) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit, or the average limit multiplied by the applicable TRC ( $TRC = 1.4$  for BOD, TSS, fats, oil, and grease, and  $1.2$  for all other pollutants except pH). The following compatible pollutants are exempt from TRC consideration if they exceed the surcharge level but do not exceed upper ceiling: BOD, TSS, FOG;
- (3) Any other violations of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or passthrough (including endangered the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

- (5) Failure to meet within 90 days after the schedule date a compliance schedule milestones contained in a local control mechanism or enforcement order for starting construction, completing construction, and attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, required reports, such as baseline monitoring reports, 90-days compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations that the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Generally, an isolated instance of noncompliance or a Category 0 violation can be met with an informal response or Noncompliance Notification (NCN). Any Category 1 to Category 4 violations should be responded to with an escalation in enforcement that requires a return to compliance by a specific deadline.

### **NONCOMPLIANCE NOTIFICATION (NCN)**

Generally issued by the inspector/field personnel, the Noncompliance Notification (NCN) is an official communication from the City of Sparta to the non-compliant user that deficiencies have been identified. Most NCN's allow the non-compliant user a 30 day period to respond to the deficiencies. Failure to respond to an NCN will result in the issuance of a Notice of Violation. NCNs may be issued to food service establishments for the following deficiencies:

- Grease Interceptor Effluent (outlet) T not acceptable
- Grease Interceptor Effluent (outlet) T not visible or accessible for inspection
- Grease Interceptor mid-wall baffle or side walls indicates deterioration of concrete
- Grease Interceptor FOG and food solids layer are greater than 25% of the capacity of the interceptor tank, or interceptor was not pumped within last 90 days
- FOG evident in downstream sewer line from this facility
- Facility has no grease control equipment installed
- No Records of interceptor or trap maintenance available at the facility
- Sewer cleanout covers missing or damaged, allowing rainfall inflow to sanitary sewer

- FOG on ground, around recycle bin or dumpster, causing stormwater impact

### **NOTICE OF VIOLATION (NOV)**

Generally issued by the inspector/field personnel, the Notice of Violation (NOV) is an official communication from the City to the non-compliant user that informs the user that the pretreatment violation has occurred. The NOV is issued for relatively minor or infrequent violations of pretreatment standards and requirements and should be issued within five (5) working days of the identification of a violation. A NOV does not contain assessment of penalties or cost recovery. The NOV provides the user with an opportunity to correct the noncompliance on its own initiative rather than according to a schedule of actions determined by the City. The NOV documents the initial attempts of the City to resolve the noncompliance. Authenticated copies of NOV's may serve as evidence in judicial proceedings.

### **SCHEDULE OF COMPLIANCE**

A Schedule of Compliance is a detailed list of the steps to be taken by a non-compliant facility whereby compliance with all pretreatment regulations will be achieved. This schedule shall contain increments of progress 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 (e.g. hiring an engineer, completing preliminary plans, executing contracts for components, commencing construction, etc.).

### **ADMINISTRATIVE PENALTIES**

An administrative penalty is a monetary penalty assessed by the City for violations of pretreatment standards and requirements. Administrative penalties are to be used as an escalated enforcement action and are punitive in nature and are not related to a specific cost born by the City. Instead, the amount of the penalty should recapture any economic benefit gained by noncompliance and/or deter future violations. An Administrative Order is to be used to assess an administrative penalty.

### **ADMINISTRATIVE ORDERS**

Administrative Orders (AO) are to be issued by the Industrial Waste Coordinator, or the Director of the City of Sparta Wastewater Department. Administrative Orders are enforcement documents that direct users to undertake and/or to cease specified activities. Administrative Orders are to be

used as the first formal response to significant noncompliance, and may incorporate compliance schedules, administrative penalties, assessments for costs incurred during investigation and/or enforcement, attorney's fees, assessments for damages and termination of service. The City has adopted four (4) general types of AOs: Compliance Orders, Show Cause Orders, Cease and Desist Orders, and Agreed Orders.

#### COMPLIANCE ORDER

A Compliance Order directs the User to achieve or restore compliance by a specified date and is the primary means of assessing penalties and costs. The Compliance Order will document the noncompliance and state required actions to be accomplished by specific dates and is issued by the City.

#### SHOW CAUSE ORDER

An Order to Show Cause directs the User to appear before the City, explain its noncompliance, and show cause why more severe enforcement action should not be pursued. The hearing is open to the public and may be formal (i.e. conducted according to the rules of evidence, with verbatim transcripts and cross-examination of witnesses) or informal. The results of all hearings, along with any data and testimony (recorded by tape machine or stenographer) submitted as evidence, are available to the public and may serve as evidentiary support for future enforcement actions.

#### CEASE and DESIST ORDER

A Cease and Desist Order directs a noncompliant User to cease illegal or unauthorized discharge immediately or to terminate discharge altogether. To preserve the usefulness of this order in emergency situations, penalties should not be assessed in this document. A Cease and Desist order will be used in situations where the discharge is causing interference, pass through, environmental harm, or otherwise creating an emergency situation. The order may be issued immediately upon discovery of an emergency situation or following a hearing. In an emergency, the order to cease and desist may be given by telephone with a subsequent written order to be served by the City before the close of business on the next working day. If the User fails to comply with the order, the City may take independent action to halt the discharge.

#### AGREED ORDER

The Agreed Order is an agreement between the City and the User. The Agreed Order normally contains three elements: (1) compliance schedules with specific milestone dates; (2) stipulated penalties, damages, and/or remedial actions; and (3) signature by the City and the User representative. An Agreed order is appropriate when the User assumes the responsibility for its noncompliance and is willing (in good faith) to correct the causes.

## PENALTY ASSESSMENT

Determining a penalty amount that reflects the violation's significance is extremely important. If the penalty is too small, its deterrent value is lost and the User may regard the amount as a tax or nominal charge to pollute. If the penalty is too great, it could bankrupt the industry (making necessary investment in pretreatment equipment impossible or potentially forcing unnecessary closure). The City has categorized the various types of violations, and assigned a penalty range to each category. Penalty categories are determined by using the Enforcement Response Table (attached). All penalty assessments will be approved and signed by the City or their designee. Penalty amounts are considered to be an economic deterrent to the illegal activity. Penalty ranges have been designed to recover any economic benefit gained by the violator through non-compliance.

CATEGORY 0 = NO PENALTY

CATEGORY 1 = \$50.00 to \$500.00

CATEGORY 2 = \$50.00 to \$1,000.00

CATEGORY 3 = \$50.00 to \$10,000.00

CATEGORY 4 = DIRECT LEGAL ACTION - Any penalties and/or costs to be assessed at the maximum penalty allowable by applicable law and included as part of the legal action.

Assessments for damages or destruction of the facilities of the POTW, and any penalties, costs, and attorney's fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcement, are not part of this penalty assessment procedure and would be in addition to any penalties assessed as described above.

### ***Abbreviations:***

FSE: Food Service Establishment

NCN: Noncompliance Notification

NOV: Notice of Violation

AO: Administrative Order

FOG: Fats, oils and grease

FSE: Food Service Establishment

GCE: Grease Control Equipment

POTW: Publicly Owned Treatment Works

SC: Show Cause

SPS: Sewerage Pumping Station

WWTP: Wastewater Treatment Plant

**City of Sparta, TN Food Service Establishment Enforcement Response Guide**

<u>Incident</u>	<u>Category Level</u>	<u>Action Taken</u>
1. Failure to install grease control equipment, or		
2. Grease Interceptor structural failure (baffle wall collapsed, walls deteriorated, tank leaking, infiltration/inflow in tank), or		
3. Failure to install proper effluent (outlet T), or		
4. No access to effluent (outlet T) to determine compliance		
<b>A. Initial Notification -</b> Noncompliance Notification of problem, with response due date.	0	Issue NCN -30 day deadline for response
<b>B. Second Notification -</b> Failure to comply with NCN. Issue NOV and 15 additional days to comply	1	Issue NOV -15 day deadline
<b>C. Third Notification -</b> Issue \$500 AO and 30 additional days to comply.	2	Issue AO \$500
<b>D. Fourth Notification -</b> Failure to comply with AO, Issue \$250 / day penalty.	3	\$250/day
2. Facility contributing FOG to downstream manhole, SPS, or WWTP. Classify degree of impact for appropriate response:		
<b>A. Slight FOG impact</b> (slight coating of FOG in POTW less than 1/4" coverage - 1/2 of pipe)	0	NCN - 30 day response
<b>B. Moderate FOG impact</b>	2	NOV - 30 day

(moderate coating FOG in

deadline

<u>Incident</u>	<u>Category Level</u>	<u>Action Taken</u>
POTW, less than 1/2," coverage - 1/2 of pipe)		Reimburse cleaning costs to City, Require interceptor mid-wall sweep.
C. <b>Heavy FOG impact</b> (heavy coating FOG in POTW, causing obstruction and/or interference in sewer line)	3	Reimburse cleaning costs to City & AO - \$1,000 Require Interceptor Mid-wall sweep
C. <b>Heavy FOG impact</b> (facility's discharge caused bypass or sanitary sewer overflow)	4	Direct Legal Action
6. Grease Control Equipment not maintained (pumped or cleaned) *Interceptor has > 25% FOG and solids, or > 90 days *Trap cleaned > monthly		
A. 1 Incident within 24 month period	0	NCN - 30 days
B. 2 Incidents within 24 month period	1	NOV - 15 days
C. 3 Incidents within 24 month period	2	NOV - \$500
D. 4 Incidents within 24 month period	3	SC - \$1000
E. 5 Incidents within 24 month period	3	City pumps GCE Charges FSE, + \$1000
7. Failure to respond to any notification letter within 30 days		Escalation of Enforcement
8. No records of grease control equipment maintenance or cleaning at facility		



A.	1 Incident within 24 month period	0	NCN
B.	2 Incidents within 24 month period	1	NOV
C.	3 Incidents within 24 month period	2	NOV - \$100
D.	4 Incidents within 24 month period	3	NOV - \$250
E.	5 Incidents within 24 month period	3	NOV - \$500
9.	Failure to allow access for inspectors to adequately assess grease control equipment	4	Show Cause
10.	Safety hazard at grease control equipment area (i.e. missing manhole cover, manhole cover damaged or not made of material of suitable strength)		Notify Health Dept/ Codes and issue NCN
11.	Facility in violation of numerical FOG limit		
A.	FOG concentration in excess of limit but less than 2x of limit	1	NOV - \$100
B.	FOG concentration between 2x to 4x of limit	1	NOV - \$250
C.	FOG concentration in excess of 4x of limit	2	NOV - min. \$300- \$500
12.	Facility using additives or chemicals that emulsify or otherwise cause FOG to be discharged to the City sewer system	3	Show Cause
13.	Failure of new facility, or an existing facility that upgrades their facility, to notify City, or submit Grease Control Equipment information.	1	Issue NOV & require GCE Inquiry
14.	Missing or damaged sewer cleanout covers, or any rainfall inflow		
	To city sewer	0	
	First Notification	0	NCN-30 days

Second Notification 1  
Third Notification(repeat 3  
fine after every 15 days  
if unresolved) 3

NOV-15 days  
NOV-\$500