

**THE
SOUTH PITTSBURG
MUNICIPAL
CODE**

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

in cooperation with the
TENNESSEE MUNICIPAL LEAGUE

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Change 1, December 14, 2010

CITY OF SOUTH PITTSBURG, TENNESSEE

MAYOR

Mike Killian

VICE-MAYOR

Charles E. Reynolds

COMMISSIONERS

Debbie Hughes
Gene King
Ronald Lancaster

CITY CLERK

Carolyn Case

RECORDER

Mary Faye Payne

Preface

The South Pittsburg Municipal Code contains the codification and revision of the ordinances of the City of South Pittsburg, 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 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

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

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

The able assistance of Linda Dean, Administrative Specialist, is gratefully acknowledged.

Steve Lobertini
Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
CITY CHARTER

Style publication and passage of ordinances. The style of all city ordinances shall be: "Be it ordained by the board of mayor and commissioners of the City of South Pittsburg." Copies of the text of every ordinance shall be made available to the public during every meeting in which the ordinance is subject to a reading.

Each ordinance shall be read and passed on two (2) separate days before the same is operative. Each ordinance shall receive a public hearing prior to its second and final reading. (art. 2, § 8)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND COMMISSIONERS.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND COMMISSIONERS²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Compensation of mayor and commissioners.

1-101. Time and place of regular meetings. The board of mayor and commissioners shall hold regular monthly meetings at a consistent time set by the board of mayor and commissioners on the second Tuesday of each month at the city hall. (Ord. #582, Jan. 1997)

1-102. Order of business. The city administrator shall furnish the board of mayor and commissioners a copy of the agenda for all regular meetings including old business and new business no later than the Thursday next preceding said regular meeting. At each meeting of the board of mayor and

¹Charter references

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

Municipal code references

Building, plumbing, and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²Charter references

Election: art. 2, § 1.

Qualifications and compensation: art. 2, § 2.

Meetings: art. 2, § 7

Vacancy in office of mayor or commissioner: art. 2, § 5.

commissioners the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from commissioners and other officers, committees, and boards.
- (7) Old business.
- (8) New business (A minimum ten day notice shall be required for all items to come before regular meetings of the board with the exception of those items deemed to be an emergency).
- (9) Adjournment. (1994 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and commissioners at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1994 Code, § 1-103)

1-104. Compensation of mayor and commissioners. The compensation of the mayor shall be four hundred dollars (\$400.00) per month and the compensation of each commissioner shall be two hundred dollars (\$200.00) per month.¹ (1994 Code, § 1-104, as amended by Ord. #603, May 1998)

¹Charter references

Legislative department: art. 2, § 2.

CHAPTER 2

MAYOR¹

SECTION

1-201. Executes city's contracts.

1-202. Civil emergency powers.

1-201. Executes city's contracts. The mayor shall execute all contracts as authorized by the board of mayor and commissioners. (1994 Code, § 1-201)

1-202. Civil emergency powers. Whenever the mayor proclaims a civil emergency pursuant to Tennessee Code Annotated, § 38-9-101 et seq., any person violating the provisions of orders issued by the mayor, including curfew orders and other restrictive orders as set forth in the above statute, shall be guilty of a misdemeanor. (1994 Code, § 1-202)

¹Charter references

Composition, election and tenure: art. 2, § 1.

Mayor and recorder to sign warrants, etc.: art. 3, § 11.

Powers and duties: art. 2, § 4.

Qualifications and compensation: art. 2, § 2.

Vacancy in office: art. 2, § 5.

CHAPTER 3

RECORDER¹

SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

1-303. Recorder's duties, etc.

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and commissioners. (1994 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and commissioners and shall preserve the original copy of all ordinances in a separate ordinance book. (1994 Code, § 1-302)

1-303. Recorder's duties, etc. The city recorder shall be the general accountant of the city and as such it shall be the city recorder's duty to receive and preserve in his office all accounts, books, vouchers, papers, etc., relating to the accounts and contracts of the city, its debts, revenues and other fiscal affairs. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1994 Code, § 1-303)

¹Charter references

Appointment: art. 3, § 7.

Duties: art. 3, § 9.

Recorder to be general accountant: art. 3, § 8.

Recorder to be property custodian, record minutes and keep all city records: art. 3, § 12.

Recorder to collect taxes: art. 3, § 10.

Recorder and mayor to sign warrants, etc.: art. 3, § 11.

CHAPTER 4

CODE OF 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 non-voting 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 City of South Pittsburg. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City of South Pittsburg. The words "City of South Pittsburg" include these separate entities. (as added by Ord. #686, June 2007)

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #686, June 2007)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #686, June 2007)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the 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. #686, June 2007)

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

(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. #686, June 2007)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #686, June 2007)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determine by the governing body to be in the best interests of the City of South Pittsburg. (as added by Ord. #686, June 2007)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the City of South Pittsburgh. (as added by Ord. #686, June 2007)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonable inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the City of South Pittsburgh's charter or any ordinance or policy. (as added by Ord. #686, June 2007)

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

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

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the City of South Pittsburgh'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. #686, June 2007)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the City of South Pittsburg'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. #686, June 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. PARK AND RECREATION ADVISORY BOARD.
2. BOARD MEMBERS ATTENDANCE POLICY.

CHAPTER 1

PARK AND RECREATION ADVISORY BOARD

SECTION

- 2-101. Creation and membership.
- 2-102. Powers and duties.

2-101. Creation and membership. Pursuant to the provisions of chapter 24 of title 11, Tennessee Code Annotated, there is hereby created a Park and Recreation Board consisting of five (5) members, at least two (2) of whom may be members of the local school staff. All members of such board shall be appointed by the mayor to serve for terms of five (5) years or until their successors are appointed except that the members first appointed shall be appointed for such terms that the term of one (1) member shall expire annually thereafter. The members of such board shall serve without pay. Any vacancy occurring otherwise than by expiration of a term shall be filled only for the unexpired term and all appointments shall be by the mayor. (1994 Code, § 2-101)

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

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

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

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

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

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

(6) Nothing in this chapter shall be construed as authorizing or empowering the parks and recreation advisory board or any of its members to impose any liability of any nature, financial or otherwise, upon the city.

(7) Three (3) consecutive unexcused absences by a board member shall result in removal by the mayor. (1994 Code, § 2-102, as amended by Ord. #671, Nov. 2005)

CHAPTER 2

BOARD MEMBERS ATTENDANCE POLICY

SECTION

2-201. Attendance policy.

2-201. Attendance policy. The Board of Mayor and Commissioners for the City of South Pittsburg, Tennessee hereby establish an attendance policy whereby upon three (3) consecutive unexcused absences of a member of any board listed below, such board member's term shall expire, and such board member shall be replaced by either the mayor or the board of mayor and commissioners, in the same manner by which said departing board member was appointed. The following boards are subject to the provisions of this chapter:

- (1) Beer board;
- (2) Board of zoning appeals;
- (3) Elderly housing board;
- (4) South Pittsburg Housing Authority Board;
- (5) Industrial development board;
- (6) Park board;
- (7) Planning commission. (as added by Ord. #674, Jan. 2006)

TITLE 3**MUNICIPAL COURT**¹**CHAPTER**

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

CHAPTER 1**CITY JUDGE****SECTION**

- 3-101. Office of city judge created.
3-102. Powers and duties.
3-103. Salary.

3-101. Office of city judge created. The office of city judge is hereby created, and it shall be filled in accordance with provisions of the charter for a term of four (4) years by the board of mayor and commissioners. (1994 Code, § 3-101)

3-102. Powers and duties. The city judge shall have all of the jurisdiction, powers and duties provided for the city court in the charter of the City of South Pittsburgh. (1994 Code, § 3-102)

3-103. Salary. The city judge shall receive a salary of \$400.00 per month. (1994 Code, § 3-103)

¹Charter references

Appointment; term of office; qualifications: art. 4, § 1.

Jurisdiction: art. 4, § 2.

Temporary judge: art. 4, § 3.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

3-202. Imposition of fines, penalties, and costs.

3-203. Disposition and report of fines, penalties, and costs.

3-204. Trial and disposition of cases.

3-205. Contempt of court.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (1994 Code, § 3-201)

3-202. Imposition of fines, penalties, and costs. All fines, penalties, and costs shall be imposed and recorded by the city judge on the city court docket in open court and then paid into the general fund of the city.

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases. (1994 Code, § 3-202)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the governing body a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1994 Code, § 3-203)

3-204. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1994 Code, § 3-204)

¹State law reference

Tennessee Code Annotated, § 8-21-401.

3-205. Contempt of court. It shall be deemed to be contempt of court and a misdemeanor for any person to: Wilfully fail or refuse to obey any legally issued and served process from the city court; to prevent or attempt to prevent, by unlawful coercion or threats, any other person from complying with such process; to unlawfully refuse to answer any proper question asked him by or before the court; to interfere with or disturb, by noises or otherwise, proceedings of the city court; or to wilfully fail or refuse to obey any lawful order of the city court. (1994 Code, § 3-205)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating city ordinances. (1994 Code, § 3-301)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1994 Code, § 3-302)

3-303. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1994 Code, § 3-303)

¹State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.

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 his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1994 Code, § 3-401)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days¹ next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1994 Code, § 3-402)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county. No other type bond shall be acceptable. (1994 Code, § 3-403)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY--CITY PERSONNEL.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. INFECTIOUS DISEASE CONTROL POLICY.

CHAPTER 1

SOCIAL SECURITY--CITY PERSONNEL

SECTION

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

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

There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city. (1994 Code, § 4-101)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1994 Code, § 4-102)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1994 Code, § 4-103)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1994 Code, § 4-104)

4-105. Records and reports to be made. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1994 Code, § 4-105)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-201. Establishment.

4-202. Title.

4-203. City administrator designated program director.

4-204. Program standards.

4-205. Effective date of plan.

4-201. Establishment. In compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of South Pittsburg, Tennessee, hereby establishes an "Occupational Safety and Health Program" for its employees. (1994 Code, § 4-301)

4-202. Title. This chapter shall be known as the "Occupational Safety and Health Program for the employees of the City of South Pittsburg." (1994 Code, § 4-302)

4-203. City administrator designated program director. The City of South Pittsburg hereby designates the city administrator, hereinafter referred to as the "director," to establish a safety and health program in compliance with the requirements of the Tennessee Occupational Safety and Health Act of 1972, and he is hereby given the authority to implement a plan which shall encompass the issues and standards which have been promulgated by applicable state standards. (1994 Code, § 4-303)

4-204. Program standards. This plan shall be at least as effective as the federal or state standards on the same issues and shall include the following:

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

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

(3) The director shall provide for education and training of personnel for the administration of the program, and he shall provide for the education and training of all employees of the city to the extent that same is necessary for

said employees to recognize and report safety and health problems as defined in the applicable standards.

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

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

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

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

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

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

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

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

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

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

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

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

(16) The director shall submit said plan to the Tennessee Department of Labor for approval on or before November 1, 1973. (1994 Code, § 4-304)

4-205. Effective date of plan. Said plan, upon its approval by the Tennessee Department of Labor, shall become effective to the City of South Pittsburg, Tennessee, and at that time shall become a part of this chapter as fully and completely as if set out herein. (1994 Code, § 4-305)

CHAPTER 3

INFECTIOUS DISEASE CONTROL POLICY

SECTION

- 4-301. Purpose.
- 4-302. Coverage.
- 4-303. Administration.
- 4-304. Definitions.
- 4-305. Policy statement.
- 4-306. General guidelines.
- 4-307. Hepatitis B vaccinations.
- 4-308. Reporting potential exposure.
- 4-309. Hepatitis B virus post-exposure management.
- 4-310. Human immunodeficiency virus post-exposure management.
- 4-311. Disability benefits.
- 4-312. Training regular employees.
- 4-313. Training high risk employees.
- 4-314. Training new employees.
- 4-315. Records and reports.
- 4-316. Legal right of victims of communicable diseases.

4-301. Purpose. It is the responsibility of the City of South Pittsburg 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 South Pittsburg, 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). (1994 Code, § 4-401)

4-302. 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 body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;
- (3) Housekeeping and laundry workers;

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination. (1994 Code, § 4-402)

4-303. Administration. This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

- (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 body fluids;
- (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 commissioners any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to body fluids and shall 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 commissioners. (1994 Code, § 4-403)

4-304. 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 potential 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. (1994 Code, § 4-404)

4-305. Policy statement. All blood and body fluids are infectious for several blood-borne pathogens and some body fluids can 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 body fluids which contain visible blood. 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. (1994 Code, § 4-405)

4-306. 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 body fluids 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 body fluids 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. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp

items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(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 body fluids 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 to 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 body fluids 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 body fluids.

(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 object 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) Linen soiled with body fluids shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. 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.

The employee responsible for transported soiled linen 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 body fluids.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (1994 Code, § 4-406)

4-307. Hepatitis B vaccinations. The City of South Pittsburg shall offer the appropriate hepatitis B vaccination to employee 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 Infectious Disease Control Coordinator. (1994 Code, § 4-407)

4-308. 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 Infectious Disease Control Coordinator 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. (1994 Code, § 4-408)

4-309. 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. (1994 Code, § 4-409)

4-310. 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. (1994 Code, § 4-410)

4-311. 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. (1994 Code, § 4-411)

4-312. 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 body fluids. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (1994 Code, § 4-412))

4-313. 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. (1994 Code, § 4-413)

4-314. 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. (1994 Code, § 4-414)

4-315. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained 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 (ie. gamma 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 city 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. (1994 Code, § 4-415)

4-316. 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 officer 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, discreet 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. (1994 Code, § 4-416)

TITLE 5**MUNICIPAL FINANCE AND TAXATION**¹**CHAPTER**

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

CHAPTER 1**REAL PROPERTY TAXES****SECTION**

5-101. When due and payable.

5-102. When delinquent--penalty and interest--collection.

5-101. When due and payable.² Taxes levied by the city against real property shall become due and payable annually on the first Monday of October of the year for which levied, as provided in art. 6, § 2 of the city's charter. (1994 Code, § 5-101)

¹Charter references

Collection of delinquent taxes: art. 6, § 3.

County may collect taxes: art. 6, § 4.

Recorder to collect taxes: art. 3, § 10.

²State law reference

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.

5-102. When delinquent--penalty and interest--collection.¹ All real property taxes shall become delinquent on and after the first day of March next after they become due and payable, as provided in art. 6, § 3 of the city's charter, and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.²

The recorder and city attorney shall have and employ the same powers and authority for collecting delinquent city taxes that county officials have for collecting delinquent county taxes. (1994 Code, § 5-102)

¹State 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.

²Charter 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 2

PRIVILEGE TAXES

SECTION

5-201. Tax levied.

5-202. License required.

5-201. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws.

The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701 et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the said act. (1994 Code, § 5-201)

5-202. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1994 Code, § 5-202)

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1994 Code, § 5-301)

¹State law reference

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

Municipal code reference

Alcohol and beer regulations: title 8.

CHAPTER 4

PURCHASING

SECTION

5-401. Purchasing.

5-401. Purchasing. (1) Competitive bids shall be required when the purchase cost for goods and services is \$5,000 or more;

(2) All purchases shall require prenumbered purchase orders;

(3) Purchases under the amount of fifty dollars (\$50.00) may be made with a purchase order at the discretion of department directors. Purchases over the amount of fifty dollars (\$50.00) shall require the city administrator's approval prior to purchase. When the city administrator is unavailable and an emergency purchase need arises, the mayor shall issue approval for the item. (Ord. #578, Dec. 1996, as amended by Ord. #606, Sept. 1998)

TITLE 6**LAW ENFORCEMENT¹****CHAPTER**

1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.

CHAPTER 1**POLICE DEPARTMENT****SECTION**

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Police department records.
- 6-104. Policemen to wear uniforms and be armed.
- 6-105. Auxiliary police force.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1994 Code, § 6-101)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1994 Code, § 6-102)

6-103. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by policemen.

(3) All police investigations made, funerals, convoyed, fire calls answered, and other miscellaneous activities of the police department. (1994 Code, § 6-103)

6-104. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and commissioners

¹Municipal code reference

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

shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1994 Code, § 6-104)

6-105. Auxiliary police force. (1) Establishment. There shall be established within the police department an auxiliary police force to consist of twenty (20) members, who shall, when serving as policemen, have all the powers, duties, and responsibilities as conferred upon regular police officers, as provided by the state law and the charter and ordinances of the city.

(2) Appointment, qualifications, and removal of members. The members of the auxiliary police force shall be appointed by the city administrator upon recommendation of the chief of police. Membership shall be upon a voluntary basis, and shall consist of persons who are of good moral character and high integrity. The members shall be issued a card or certificate, showing that they are members of such police force, and will be issued a badge indicating their membership. Members shall wear such uniform, when on duty, as shall be prescribed by the chief of police. Members shall also wear such other articles of identification or insignia as may be prescribed by the chief of police. The members of the auxiliary police force shall be subject to removal at any time by the chief of police or the city administrator. In the event of removal, the chief of police or city administrator, shall notify the member removed. The member shall return to the chief of police or the city administrator, his identification card, badge, and such other insignia as may have been issued to him.

(3) Organization. The auxiliary police force shall be organized by chief of police and city administrator under the supervision of the chief of police.

(4) Rules and regulations. The chief of police shall make such rules and regulations as necessary for the meetings, training, and activities of the auxiliary police force.

(5) Supervision. The auxiliary police force shall be under the supervision and control of the chief of police, or in his absence, the city administrator, or in his absence the mayor, or in his absence the next in line of authority, and shall perform such duties as assigned to it.

In the event of an emergency the auxiliary police force may be called out for extended duty by the chief of police with the approval of the city administrator. In the event they are placed upon extended duty the members of the auxiliary police force shall be paid such compensation as may be fixed by the board of mayor and commissioners. At other times, when their duties are purely temporary and for a day or less duration, then they shall serve on a purely voluntary basis.

(6) Violations. It is hereby declared a misdemeanor for any person to act as an auxiliary policeman unless specifically authorized, as provided in this chapter, or for any person to wear or display any of the insignia designating the auxiliary police force, or to represent himself to be a member thereof when he

is not, and upon conviction before the city court, shall be punished under the general penalty clause for this code. (1994 Code, § 6-105)

CHAPTER 2

ARREST PROCEDURES

SECTION

6-201. When policemen to make arrests.

6-202. Disposition of persons arrested.

6-203. Policemen may require assistance.

6-201. When policemen to make arrests.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1994 Code, § 6-201)

6-202. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. (1994 Code, § 6-202)

6-203. 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 person's assistance is requested by the policeman and is reasonably necessary. (1994 Code, § 6-203)

¹Municipal code reference

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

TITLE 7**FIRE PROTECTION**¹**CHAPTER**

1. FIRE LIMITS.
2. FIRE CODE.
3. FIRE DEPARTMENT.

CHAPTER 1**FIRE LIMITS****SECTION**

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire district shall be as follows: all of blocks 2, 3, 4, 5, 6, 9, and 10 as shown on the plat of the city. (1994 Code, § 7-101)

¹Municipal code reference

Building, utility and housing codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

7-201. Fire code adopted.

7-202. Enforcement.

7-203. Definition of "municipality."

7-204. Gasoline trucks.

7-205. Variances.

7-206. Violations and penalties.

7-201. Fire code adopted. (1) A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the International Fire Code, 2006 edition, as published by the International Code Council, be and is hereby adopted as the fire code of the City of South Pittsburg, Tennessee for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with additions, insertions, deletions and changes, if any, presented in subsection (2) of this section.

(2) The following sections are hereby revised:

Section 101.1. Insert: City of South Pittsburg

Section 109.3. Insert: Offense, dollar amount, number of days

Section 111.4. Insert: \$50, as prescribed by law

(1994 Code, § 7-201, modified, as replaced by Ord. #701, Oct. 2008)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the fire inspector acting under the supervision of the fire chief and the city administrator. He shall have the same powers as the state fire marshal. (1994 Code, § 7-202)

¹Municipal code reference

Building, utility and housing codes: title 12.

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of South Pittsburg, Tennessee. (1994 Code, § 7-203)

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. (1994 Code, § 7-204)

7-205. Variances. The chief of the fire department may recommend to the board of mayor and commissioners variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and commissioners. (1994 Code, § 7-205)

7-206. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard Fire Prevention Code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and commissioners or by a court of competent jurisdiction, within the time fixed herein. 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. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions. (1994 Code, § 7-206)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment and membership.
- 7-302. Objectives.
- 7-303. Organization, rules and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training.
- 7-307. Equipment to be used only within corporate limits.
- 7-308. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and commissioners. All apparatus, equipment and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the city administrator and such number of physically-fit subordinate officers and firemen as the chief shall appoint and the city administrator shall approve. (Ord. #580, Jan. 1997)

7-302. Objectives. The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1994 Code, § 7-302)

7-303. Organization, rules and regulations. The chief of the fire department, under the direction of the city administrator, shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1994 Code, § 7-303)

¹Municipal code reference

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

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel and work of the department. He shall submit such written reports on such matters to the city administrator, as the city administrator requires. The city administrator shall submit a report on those matters to the board of mayor and commissioners as the board of mayor and commissioners may require. (1994 Code, § 7-304)

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

All personnel of the fire department shall receive such compensation for their services as the board of mayor and commissioners may from time to time prescribe. (1994 Code, § 7-305)

7-306. Chief responsible for training. The chief of the fire department under the direction of the city administrator, shall be fully responsible for the training of the firemen, and for maintenance of all property and equipment of the fire department. (1994 Code, § 7-306)

7-307. Equipment to be used only within corporate limits. No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless expressly authorized by the board of mayor and commissioners by resolution based upon and approving a written contract for rendering fire fighting services within another municipality as set out in a written contract duly executed with and by such other municipality. (1994 Code, § 7-307)

7-308. 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 insurance and banking and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1994 Code, § 7-308)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. LIQUOR BY THE DRINK.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definitions.
- 8-102. Subject to regulation.
- 8-103. Manufacture prohibited.
- 8-104. Wholesalers.
- 8-105. Sale by licensee legalized.
- 8-106. Qualification of applicant.
- 8-107. Content of application for certificate of good moral character.
- 8-108. Misrepresentation or concealment.
- 8-109. Restrictions on issuance of certificate of good moral character.
- 8-110. Amount of investigation fee.
- 8-111. Miscellaneous restrictions on licensees and their employees.
- 8-112. Nature and revocability of license.
- 8-113. Display of license.
- 8-114. Location of liquor store.
- 8-115. Maximum number of licenses.
- 8-116. License not transferable.
- 8-117. Limited time of operation.
- 8-118. Minors, persons visibly intoxicated and habitual drunkards.
- 8-119. No consumption on premises of liquor store.
- 8-120. Public drinking and public display of alcoholic beverage prohibited.
- 8-121. Inspection fee.
- 8-122. Inspection fee reports.
- 8-123. Records to be kept by licensee.
- 8-124. Inspections.

¹Municipal code references

Driving under the influence: § 15-104.

Minors in beer places: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

- 8-125. Effect of failure to report and pay inspection fee.
- 8-126. Use of funds derived from inspection fees.
- 8-127. Other violations by licensee.
- 8-128. Licensee's responsibility.
- 8-129. Penalties.
- 8-130. Separability.
- 8-131. Section headings.
- 8-132. Repeal of other ordinances.
- 8-133. Initial applications.

8-101. Definitions. Whenever used in this chapter the following terms shall have the following meanings unless the context necessarily requires otherwise.

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

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

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

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

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

(6) "Certificate of good moral character" means the certificate provided for in Tennessee Code Annotated, § 57-3-208, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(7) "City" means the City of South Pittsburg, Tennessee.

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

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

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

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

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

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

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

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

(16) "License fee" means the annual fee a licensee is required by this chapter to pay at or prior to the time of the issuance of a license.

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

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

(19) "Person" shall mean and include an individual, partner, association or corporation.

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

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

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

(23) "State" means the State of Tennessee.

(24) "State alcoholic beverage commission" means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including without limitation the provisions of Tennessee Code Annotated §§ 57-1-101--57-1-209.

(25) "State liquor retailer's license" means a license issued under the state statutes (including the provisions contained in Tennessee Code Annotated §§ 57-2-101--57-2-105) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

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

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

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

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

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

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

(32) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-2-101--57-2-105.

(33) Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural. (1994 Code, § 8-101)

8-102. Subject to regulation. It shall be unlawful for any person either to engage in the business of selling, storing, transporting, or distributing any alcoholic beverage within the corporate limits of the city or to sell, store, transport, distribute, purchase or possess any alcoholic beverage within the corporate limits of the city, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (1994 Code, § 8-102)

8-103. Manufacture prohibited. It shall be unlawful for any person to manufacture any alcoholic beverage within the corporate limits of the city. (1994 Code, § 8-103)

8-104. Wholesalers. Unless hereafter authorized by an ordinance of the city, no wholesaler's license shall be granted to any person for the operation within the corporate limits of the city of any business for the sale at wholesale of any alcoholic beverage. Any wholesaler whose business is located outside the city and who holds a valid state license, and who has paid to the city all privilege taxes and fees applicable to such wholesale business, may purchase any alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes, and by this chapter. (1994 Code, § 8-104)

8-105. Sale by licensee legalized. It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store, within the corporate limits, provided such sales are made in compliance with applicable federal statutes,

state statutes, state rules and regulations, and the provisions of this chapter. (1994 Code, § 8-105)

8-106. Qualification of applicant. To be eligible to apply for or to receive a certificate of good moral character, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license. (1994 Code, § 8-106)

8-107. Content of application for certificate of good moral character. Each applicant for a certificate of good moral character shall file with the board of mayor and commissioners a completed form of application, on a form to be provided by the board of mayor and commissioners, and which shall contain the following information:

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

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

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

(4) The statement that each applicant has either resided within the corporate limits of the city as the same now exist during the two (2) consecutive years immediately preceding the date the application is filed, or has owned real estate situated within the corporate limits of the city as the same now exist during the two (2) consecutive years immediately preceding the date the application is filed. However, this residency requirement does not apply to any applicant who has been continuously licensed in South Pittsburg for seven (7) consecutive years;

(5) The names and addresses of at least three (3) residents of the city who have known each applicant for at least two (2) years;

(6) If any applicant seeks to meet the requirements of § 8-106 herein through ownership of property for the required two (2) year period rather than by residence, then each such applicant shall furnish the board of mayor and commissioners with a legal description of such real estate, owned by the applicant for the required two (2) year period and also the book and page number in the Register's Office of Marion County, Tennessee, where the deed or other instrument conveying title to such real estate to the applicant is recorded; each partner of a partnership and each stockholder, director, and officer of the corporation who seeks to meet the requirements of § 8-106 herein through ownership of property for the required two (2) year period rather than by residence then each such partner of a partnership, stockholder, director and officer of the corporation shall furnish the board of mayor and commissioners with a legal description of such real estate owned by such person for the required two (2) year period and also the book and page number in the

Register's Office of Marion County, Tennessee, where the deed or other instrument conveying title to such real estate to such person is recorded;

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

(8) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within one hundred and twenty (120) days after the license is granted to such applicant. The application form shall be accompanied by a copy of each application, and each questionnaire form and other material to be filed by the applicant with the state alcoholic beverage commission in connection with the same application, and shall also be accompanied by five copies of a plan drawn to a scale of not less than one (1) inch equals twenty (20) feet, giving the following information:

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

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

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

(d) The identification of every parcel of land within three (300) hundred feet of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon and the use being made of every such parcel.

The application form shall be signed and verified by each person to have any interest in the licensee either as owner, partner, or stockholder, director, officer or otherwise. If, at any time, the applicable state statutes shall be changed so as to dispense with the requirements of a certificate of good moral character, no original or renewal license shall be issued until an application in the same form has been filed with the board of mayor and commissioners.

The recorder shall review each application, note any apparent questions, errors and insufficiencies and submit same to the board for consideration and action. (1994 Code, § 8-107)

8-108. Misrepresentation or concealment. A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the board shall forthwith report such violation to the state alcoholic beverage commission together with the request that the state alcoholic beverage commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (1994 Code, § 8-108)

8-109. Restrictions on issuance of certificate of good moral character. (1) No certificate of good moral character shall be issued unless a license issued on the basis thereof to such applicant can be exercised without violating any provision of this chapter, the state statutes, the state rules and regulations or the federal statutes.

(2) The board of mayor and commissioners shall not sign any certificate of good moral character for any applicant until (a) such applicant includes in his application a statement that if he is granted a certificate of good moral character he will open his liquor store with a minimum inventory of ten thousand dollars (\$10,000.00) in wholesale value and that his liquor store will have at least one thousand (1000) square feet of floor space, (b) such applicant's application has been filed with the board, (c) the location stated in the certificate has been approved by the board as a suitable location for the operation of a liquor store, and (d) the application has been considered at a meeting of the board and approved by a majority vote of the entire board. (1994 Code, § 8-109)

8-110. Amount of investigation fee. Before any person shall engage in the sale of alcoholic beverage, an investigation fee of \$250.00 per calendar year shall be paid, but when due after July 1, in any calendar year, the investigation fee shall be \$125.00 for the remainder of such calendar year. (1994 Code, § 8-110)

8-111. Miscellaneous restrictions on licensees and their employees. (1) No certificate of good moral character shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county; and it shall be unlawful for any such person to have any interest in the liquor retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

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

(3) No certificate of good moral character shall be issued to any person who, within ten (10) years preceding application therefor shall have been

convicted of any offense under the state statutes, state rules and regulations, the federal statutes, this chapter or of the statutes of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling alcoholic beverage or who has, during said period, been engaged in business alone or with others in violation of any of the state statutes, state rules and regulations, the federal statutes or the laws, rules and regulations of any other state, county, or city of the United States; and provided further that in case of any such conviction occurring after a license has been issued and received, it shall be recommended that the said license shall immediately be revoked.

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

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

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

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

(8) It shall be unlawful for a licensee to advertise by signs, window displays, posters, or any other designs intended to advertise any alcoholic beverage within the corporate limits of the city except by signs approved by the board, not larger in area than fifty-five (55) square feet, designating the premises as " _____ Package Store." Only two such signs, one free standing and one attached to the structure, shall be permitted and the signs shall contain

no animation or flashing. Nothing contained herein shall prohibit any manufacturer or wholesaler from advertising in news media.

(9) No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor, or representative for the purpose of receiving an order from a consumer for any alcoholic beverage at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensee at the licensee's premises.

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

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

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

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

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who has not been a resident of the city for the two (2) consecutive years immediately preceding the date of any such transfer; nor shall any of said stock be so transferred to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

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

(14) Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual or by a partner or corporate officer, if the licensee is a partnership or a corporation. In every case where alcoholic beverage is sold by a licensee that is either a partnership or a corporation the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor

store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the city recorder. (1994 Code, § 8-111)

8-112. Nature and revocability of license. The issuance of a license hereunder shall vest no property rights in the licensee and such license shall be a privilege subject to revocation or suspension as provided by the state statutes and state rules and regulations. In the event of any violation of the state statutes, state rules and regulations, federal statutes or of the provisions of this chapter by a licensee or by any person for whose acts the licensee is responsible, then the city recorder shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (1994 Code, § 8-112)

8-113. Display of license. The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (1994 Code, § 8-113)

8-114. Location of liquor store. Liquor stores may be operated and maintained on premises fronting on U.S. Highway 72 within the corporate limits, but only within the following listed zones as defined in the Zoning Ordinance of the City of South Pittsburg, as set out on the Zoning Map of the City of South Pittsburg, Tennessee, as in effect on the date of any application for a license hereunder:

- C-1 (Central Business) District
- C-2 (General Commercial) District
- C-3 (Local Highway-Limited) District

All provisions of the Zoning Ordinance of the City of South Pittsburg, Tennessee, including but not limited to those provisions relating to the required yard area, off-street loading and unloading of vehicles and off-street parking, which are applicable to the zoning district in which a liquor store is authorized to operate hereunder, shall be complied with by each licensee as a condition precedent to the operation of any liquor store authorized by this chapter. No pinball machines or other amusement devices and no seating facilities other than for employees shall be permitted in any liquor store. No political advertising of or for any candidate or party by poster, card, matches, or otherwise and no campaign material shall be placed, displayed, or dispensed on the premises of any liquor store. A liquor store shall not be located within 300 feet of any church edifice or school as measured in a direct line from the center of the front door of the licensee's place of business. To assure that these requirements are satisfied, no original or renewal license and original or renewal certificate of good moral character for an applicant for license shall be

issued for any location until a majority of the members of the board have approved the proposed location as being suitable for a liquor store after a consideration of this matter at a meeting of the board. (1994 Code, § 8-114)

8-115. Maximum number of licenses. No more than five (5) licenses shall be issued and outstanding at any time under the provisions of this chapter. No person shall make application for, nor shall any person have on file and pending at any time, an application for more than one (1) certificate of good moral character or for more than one (1) license to operate a liquor store. (1994 Code, § 8-115)

8-116. License not transferable. A licensee shall not sell, assign, give, pledge, or otherwise transfer his license or any interest therein to any other person. No license shall be transferred from the licensee by operation of law through any proceedings in bankruptcy, insolvency, or receivership, or by execution, garnishment or other similar proceedings. No license shall be transferred from one location to another without the prior written approval of the board. (1994 Code, § 8-116)

8-117. Limited time of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, on Thanksgiving Day, on any Sunday or on any day on which a public election is held within the city. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 A.M. or after 11:00 P.M. In the event of any emergency, liquor stores shall be closed upon order of the Mayor of South Pittsburg. (1994 Code, § 8-117)

8-118. Minors, persons visibly intoxicated and habitual drunkards. It shall be unlawful for any licensee to sell, furnish, or give away any alcoholic beverage to any person who is under twenty-one (21) years of age or to any person who is visibly intoxicated or to any person who is a habitual drunkard (any person under twenty-one years of age or visibly intoxicated or a habitual' drunkard being hereafter in this section referred to as "such person.") It shall be unlawful for any such person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in the licensee's liquor store or any part of the licensee's property adjacent to the liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee. It shall be unlawful for any person to purchase any alcoholic beverage from any licensee for the purpose of selling or giving such alcoholic beverage to such person. (1994 Code, § 8-118)

8-119. No consumption on premises of liquor store. It shall be unlawful for any licensee to sell or furnish any alcoholic beverage for consumption in such licensee's liquor store on the premises used by the licensee in connection therewith. It shall be unlawful for any person to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store. It shall be unlawful for any licensee to allow any person to consume any alcoholic beverage in such licensee's liquor store or on the premises used by the licensee in connection therewith. (1994 Code, § 8-119)

8-120. Public drinking and public display of alcoholic beverage prohibited. It shall be unlawful for any person to drink any alcoholic beverage or visibly and openly possess, display, exhibit, or show an unsealed bottle containing any alcoholic beverage in that portion of a restaurant or other eating place to which the general public is admitted, or in the parking area of any drive-in restaurant, or on any public street or sidewalk, or in any public park, playground, auditorium, theater, stadium, school or school ground or in any other public place. (1994 Code, § 8-120)

8-121. Inspection fee. There is hereby levied on each licensee in the city an inspection fee in the amount of eight per cent (8%) of the wholesale price of all alcoholic beverage supplied during each calendar month by a wholesaler to each licensee in the city. It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverage to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, concurrently with each such shipment or delivery, an invoice showing:

- (1) The date of the transaction;
- (2) The name and address of the wholesaler and of the licensee;
- (3) The brand name and quantity of alcoholic beverage covered by the invoice; and
- (4) The unit wholesale price and the gross wholesale price for each item listed thereon. The wholesaler's invoice shall be issued and delivered to the licensee as hereinabove provided without regard to the terms of payment of the invoice so as to include all such transactions whether for cash or on credit or partly for cash and partly for credit. The inspection fee, computed as hereinabove provided, shall be paid by each licensee to the city recorder on or before the 15th day of each calendar month for the preceding calendar month. Each licensee, as a condition precedent to operating a liquor store in the city, shall execute and deliver to the city a bond in the amount of one thousand dollars (\$1,000.00) and said bond shall be payable to the city; shall be executed by a surety company duly authorized and qualified to do business in the state; and said bond shall be conditioned that the licensee shall pay to the city all inspection fees due hereunder. The aforesaid surety bond shall be in a form approved by the city attorney. (1994 Code, § 8-121)

8-122. Inspection fee reports. The city administrator shall prepare and make available to each licensee sufficient forms for the monthly report of the inspection fees payable by each licensee; and the city administrator is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records to be kept by each licensee. (1994 Code, § 8-122)

8-123. Records to be kept by licensee. In addition to any records specified in the rules and regulations promulgated by the city administrator pursuant to the preceding section, each licensee shall keep on file at such licensee's liquor store the following records:

(1) Original invoices required under § 8-122 above for all alcoholic beverages bought by or otherwise supplied to the licensee;

(2) The original receipts for any alcoholic beverage returned by such licensee to any wholesaler; and

(3) An accurate record of all alcoholic beverage lost, stolen, damaged, given away, or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverage involved, and, where known, the name of the person or persons receiving the same. All such records shall be preserved for a period of at least two (2) years unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. (1994 Code, § 8-123)

8-124. Inspections. The city administrator is authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city administrator and the chief of police and any other police officer of the city is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers, and records of a licensee by the city administrator or the inspection and examination of the premises of a liquor store shall be a violation of this chapter and the city commissioner of finance shall forthwith report such violation to the state alcoholic beverage commission with the request that appropriate action be taken to revoke the license of the offending licensee. (1994 Code, § 8-124)

8-125. Effect of failure to report and pay inspection fee. The failure to pay the inspection fee and to make the required reports accurately within the time prescribed in this chapter shall, at the sole discretion of the city board, be cause for the taking of such action as is necessary to suspend the offending licensee's license for as much as thirty days, or to revoke said license. (1994 Code, § 8-125)

8-126. Use of funds derived from inspection fees. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the city. The city shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed; and the board finds and declares that the amount of these inspecting fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes. The inspection fee levied by this chapter shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages, and shall not be a substitute for any such taxes. (1994 Code, § 8-126)

8-127. Other violations by licensee. Any licensee who in the operation of such licensee's liquor store, shall violate any federal statute, state statute, or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages, shall be guilty of a violation of the provisions of this chapter. (1994 Code, § 8-127)

8-128. Licensee's responsibility. Each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents, and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (1994 Code, § 8-128)

8-129. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and shall be fined a minimum of \$50.00 for each such violation. Any licensee violating any provision of this chapter shall be subject to having his license suspended or revoked for such violation as provided in this chapter, or by the state statutes, or by the state rules and regulations. All policemen of the city are hereby empowered and required to take into possession any alcoholic beverages which have been received by, or are in the possession of, or are being transported by, any person in violation of the state statutes, the state rules and regulations, the federal statutes, and this chapter; and such contraband alcoholic beverage shall be disposed of as provided by the state statutes. (1994 Code, § 8-129)

8-130. Separability. The provisions of this chapter are hereby declared to be severable and if any provision hereof shall be declared unconstitutional or invalid for any reason, the board of mayor and commissioners hereby declare that this chapter would have been adopted without such unconstitutional or invalid provision. (1994 Code, § 8-130)

8-131. Section headings. The section headings included herein are solely for assistance in locating the various provisions contained in this chapter; and no such section heading shall be used by construction or otherwise to limit the meaning of the provisions contained in the body of any section. (1994 Code, § 8-131)

8-132. Repeal of other ordinances. Ordinances inconsistent herewith are hereby repealed. This chapter, however, is not intended to cover the entire field of ordinance provisions concerning beverages containing alcohol, and no provision of any other ordinance shall be repealed by this chapter unless irreconcilably inconsistent with the provisions of this chapter. Nothing contained in this chapter shall repeal any ordinances concerning beer, all of which ordinances shall remain in full force and effect. (1994 Code, § 8-132)

8-133. Initial applications. In making the initial certification of good moral character for the first five (5) persons to be licensed hereunder, the board of mayor and commissioners will consider all applications filed before a closing date to be fixed by it, and after eliminating the applicants who do not possess the qualifications required by the state statutes, by the state rules and regulations and by this chapter, it will select from among the remaining applicants the names of the applicants to whom a certificate of good moral character will be issued to the Tennessee Alcoholic Beverage Commission for issuance of a license to operate a liquor store hereunder, without regard to the order or time in which applications are filed by a vote of the majority of the entire membership of the board of mayor and commissioners.

No certificate of good moral character shall be issued for the operation of a retail liquor store when, in the opinion of the board of mayor and commissioners expressed by a majority thereof, the operation of such business at the location described in the application would be in too close proximity to a church or a school, or would be otherwise inimical or detrimental to public interest. (1994 Code, § 8-133)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
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- 8-227. License to be displayed.

¹Municipal code references

Minors in beer places, etc.: title 11, chapter 1.

Tax provisions: title 5.

State law reference

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

- 8-228. Permit to be held by owner.
- 8-229. Sale of beer for both on-premises and off-premises consumption.
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- 8-232. Retailers to purchase from wholesalers licensed by city.
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- 8-236. Civil penalty in lieu of suspension.
- 8-237. Solicitations by home delivery services prohibited.
- 8-238. Reports required of licensees.
- 8-239. Hours when packaged beer for off-premises consumption can be sold.
- 8-240. Hours when sale, distribution, etc., prohibited for on-premises consumption
- 8-241. Unauthorized use or consumption of beverages on premises.

8-201. Beer board established. There is hereby established a board of three (3) members to be known as "The Beer Board of the City of South Pittsburg, Tennessee." (1994 Code, § 8-201)

8-202. Term of office; vacancies; chairman and secretary. All members of the beer board shall serve at the pleasure of the board of mayor and commissioners. In event of a vacancy the mayor, subject to the approval of the board of mayor and commissioners, may fill the same. A chairman and a secretary shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. (1994 Code, § 8-202)

8-203. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1994 Code, § 8-203)

8-204. Record of beer board proceedings to be kept. The secretary shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1994 Code, § 8-204)

8-205. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1994 Code, § 8-205)

8-206. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (1994 Code, § 8-206)

8-207. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (1994 Code, § 8-207)

8-208. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of South Pittsburg. 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. (1994 Code, § 8-208)

8-209. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of South Pittsburg, 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. (1994 Code, § 8-209)

8-210. Applications for beer permits--investigation; assistance by chief of police. The board shall make an investigation of each applicant for a permit to sell beer to determine the character of the applicant and to determine whether or not the applicant is a suitable person to be issued a license or permit and the location a suitable place within the area authorized as places for the sale of beer. The board may call upon the chief of police to make any investigation and to furnish any information necessary with regard to any

applicant. It shall be the duty of the chief of police to cooperate with the beer board in making investigations of applicants and their prospective locations. (1994 Code, § 8-210)

8-211. Recommendations to board of mayor and commissioners.

The beer board shall make its report and recommendations to the board of mayor and commissioners as to whether or not a permit shall be issued or denied to the applicant. The board of mayor and commissioners may, notwithstanding the recommendation of the beer board, in its discretion, either grant or refuse a permit or license. All applications for the renewal of a license shall be made and referred to the beer board for its recommendation and report the same as upon an original application. (1994 Code, § 8-211)

8-212. Investigations of permit or license holders charged with certain violations; action by board of mayor and commissioners.

When any holder of a license or permit for the sale of beer is charged with the violation of any of the laws of the state, this code or other ordinances of the city or for any reasons set out in § 8-234 of this code, it shall be the duty of the beer board to make an investigation. In order that the beer board may make necessary investigations, it is hereby given authority to issue subpoena for witnesses to appear before it for the purpose of giving testimony. The chairman is authorized to administer the oath to witnesses. The beer board, after its investigation, shall make its report and recommendation to the board of mayor and commissioners as to whether or not the license shall be suspended or revoked. The board of mayor and commissioners may, notwithstanding the recommendation of the beer board, in its discretion, either revoke or suspend the license of any licensee. (1994 Code, § 8-212)

8-213. Notification of beer board when license is revoked.

When a license for the sale of beer has been revoked, it shall be the duty of the city recorder to furnish the beer board with the name and location of the licensee. (1994 Code, § 8-213)

8-214. Violations to be reported to beer board; police, etc., to cooperate with board.

It shall be the duty of the police officers and inspectors to report to the beer board any violations of the laws of the state, this code or other ordinances, rules and regulations of the city by any licensee. All police officers and inspectors and the recorder shall cooperate with and furnish all information requested by the beer board. (1994 Code, § 8-214)

8-215. Distribution, sale, etc., lawful.

It shall be lawful to distribute, sell, transport, store and possess beer, including ales or other malt liquors of alcoholic content of not more than five per cent (5%) by weight in the city, subject to all the regulations, limitations, and restrictions provided by

Tennessee Code Annotated, title 57, chapter 5, and subject to the provisions of this title. (1994 Code, § 8-215)

8-216. Areas of city wherein permits for sale of beer may be issued. No beer permit shall be issued for any business located outside of the following areas:

(1) Sales for consumption on the premises. In buildings abutting the East or West sidewalks of Cedar Avenue from Third Street on the South to First Street on the North; and in buildings fronting not more distant than thirty (30) feet from the right of way boundary lines on the East and West sides of U. S. Highway No. 72 from First Street on the South to the intersection therewith of the Jaycee Boat Dock Street or Road on the North.

Provided, however, in all instances the proposed location of applicant's business in this area must be such as to conform with the provisions of § 8-220 herein.

(2) Sales of package beer for off-premises consumption. (a) In buildings facing Cedar Avenue from the South corporate boundary line on the South to First Street on the North; in buildings fronting not more distant than thirty (30) feet from the right of way boundary lines on the East and West sides of U. S. Highway No. 72 from First Street on the South to the North corporate boundary line on the North; and in buildings located on the East side of Elm Avenue between Second and Third Streets, and

(b) In buildings located to include an area in buildings fronting not more distant than thirty (30) feet from the right-of-way boundary lines on the East and West sides of U.S. Highway No. 72 from the former South city limits of the City of South Pittsburg on the North to the Tennessee-Alabama line on the East side of said highway; and on the West side of said to the Northeast corner of the State Line Shopping Center area and thence following the boundary lines of said shopping area so as to include the entire area of the said State Line Shopping Center. (1994 Code, § 8-216)

8-217. Maximum quantity to be possessed without a license. It shall be unlawful for any person not a licensed retail dealer in beer to have in his or her possession or on his or her premises more than three cases of beer at any one time; provided, that a person or group of persons may purchase and possess more than three cases to be used exclusively for non-recurring social functions, and retail dealers may sell such person or group of persons more than three cases at one time if such person or group of persons presents to such retailer a permit signed by the chief of police specifying the amount to be purchased and the time within which such purchase shall be made. A retailer making such sales shall return or mail the permit authorizing the sale to the chief of police by 12:00 Noon of the next succeeding business date after such

sale, noting thereon the quantity sold and time of sale. It shall be unlawful for any licensed retail dealer in beer to sell or deliver to any person more than three cases of such beverages on any one day, other than as above provided. (1994 Code, § 8-217)

8-218. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1994 Code, § 8-218)

8-219. Classes of consumption permits. Permits issued by the beer board shall consist of three classes:

(1) Class 1 On Premises Permit. A Class 1 On Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) be primarily a restaurant or an eating place; and
- (b) be able to seat a minimum of thirty people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) have all seating in the interior of the building under a permanent roof; and
- (d) have been in continual operation for a period of six (6) months.

In addition, the monthly beer sales of any establishment which holds a Class 1 On premises Permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two consecutive months or for any three months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked.

(2) Class 2 On Premises Permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 On Premises Permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 On Premises Permit.

(3) Off Premises Permit. An off premises permit shall be issued for the consumption of beer only off the premises. To qualify for an off premises permit,

an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) be a grocery store or a convenience type market; and
- (b) in either case, be primarily engaged in the sale of grocery, personal, and home care and cleaning articles, but may also sell gasoline; and
- (c) have been in continuous operation for a period of six (6) months.

In addition, the monthly beer sales of any establishment which holds an off premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any establishment which for two consecutive months or for three months in any calendar year has beer sales exceeding twenty-five percent (25%) of its gross sales, shall have its beer permit revoked. (1994 Code, § 8-219)

8-220. Limitation on number of permits. There shall be no limit on the number of Class 1 On Premises Permits and Off Premises Permits. There shall be no more than three Class 2 On Premises Permits issued and outstanding at any time. (1994 Code, § 8-220)

8-221. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred (300) feet of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six-month period after January 1, 1993. (1994 Code, § 8-221)

8-222. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale,

manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (1994 Code, § 8-222)

8-223. Approval or rejection of application. The board of mayor and commissioners shall consider each application filed, and shall grant or refuse the license and permit, according to its best judgment, under all the facts and circumstances, and endorse its action on the application. The action of the board in granting or refusing a license and permit shall be final, except as it may be subject to review at law. (1994 Code, § 8-223)

8-224. Location of premises to be designated. The location of the premises at which the business of the licensee will be conducted shall be designated in his license, permit and application therefor. (1994 Code, § 8-224)

8-225. When recorder may issue license. The city recorder shall issue no license until the application therefor has been approved by the board of mayor and commissioners and he has been instructed by the board to issue same. (1994 Code, § 8-225)

8-226. Restrictions on certain licenses. (1) Hotels. Licenses may be issued to hotels for sale and consumption on the premises in rooms where meals or lunches are served and in guests' rooms.

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

(3) Billiard and poolrooms. No license shall be issued for any place used to carry on the business of playing at pool or billiards, unless for sales in the front of such place in a regularly licensed restaurant or lunchroom separated from the part of the building in which the billiard or poolroom is located by a partition or wall. (1994 Code, § 8-226)

8-227. Licenses to be displayed. The license issued under this chapter shall be posted in a conspicuous place on the premises of the licensee. (1994 Code, § 8-227)

8-228. Permit to be held by owner. A permit shall be valid:

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

(2) Only for a single location except where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all of such businesses pursuant to the

same permit, and a permit cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business;

(3) Only for a business operating under the name identified in the permit application. (1994 Code, § 8-228)

8-229. Sale of beer for both on-premises and off-premises consumption. A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one permit. (1994 Code, § 8-229)

8-230. Reports by police; hearings on violations. The chief of police and police officers shall notify the beer board of any violations of any of the provisions of this chapter by any person holding a license and permit, and shall notify any licensee violating any of the provisions of this chapter or other law or ordinance relating thereto to appear before the board of mayor and commissioners at the next regular meeting thereof following any such violation to show cause why his license and permit should not be revoked. At such meeting such licensee shall be entitled to a public hearing and to introduce evidence in his behalf. The burden shall be upon the licensee at such hearing to show that he has not been guilty of such violation or any other offense which would justify the revocation of his license and permit. (1994 Code, § 8-230)

8-231. Possession of federal license without city license. The possession by any person of any federal license to sell alcoholic beverages without the corresponding city license required shall be prima facie evidence in all cases that the holder of such federal license is selling beer in violation of the provisions of this chapter. (1994 Code, § 8-231)

8-232. Retailers to purchase from wholesalers licensed by city. It shall be unlawful for any person holding a license for the sale at retail of beer to purchase beer from anyone other than a wholesaler or distributor licensed to carry on business in the city. (1994 Code, § 8-232)

8-233. Return of permit after change in ownership. A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of business name. (1994 Code, § 8-233)

8-234. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- (2) Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.
- (3) Make or allow any sale of beer to a person under twenty-one (21) years of age.
- (4) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (5) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (6) Allow drunk persons to loiter about his premises.
- (7) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.
- (8) Allow pool or billiard playing in the same room where beer is sold and/or consumed.
- (9) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1994 Code, § 8-234)

8-235. Suspension and revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the board. (1994 Code, § 8-235)

8-236. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed \$1,000 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. (1994 Code, § 8-236)

8-237. Solicitations by home delivery services prohibited. Any person who is engaged in accepting orders and making deliveries of beer in the city shall be known and considered as operating a home delivery service of beer, and it shall be unlawful for any person engaged in the business of home delivery to solicit, either in person or by telephone, the sale or delivery of beer, or to

make sales or deliveries except on voluntary calls or orders from customers. (1994 Code, § 8-237)

8-238. Reports required of licensees. (1) Wholesalers. Each wholesaler or wholesale distributor of beer in the city shall file with the city recorder the name of the brewer such wholesaler or wholesale distributor represents, together with the name of the beer sold at wholesale or distributed in the city. In event of a change of breweries such wholesaler or distributor shall immediately furnish the city recorder with the name of any additional brewery represented.

(2) Operators of vehicles. Any person operating a vehicle either for himself or a distributor, who sells beer to any person other than licensed retailers shall make a report in writing of such sale, giving the name and address of the person to whom the sale was made, which shall be delivered or mailed to the chief of police by 12:00 Noon of the following business day. (1994 Code, § 8-238)

8-239. Hours when packaged beer for off-premises consumption can be sold. Packaged beer for off-premises consumption can be sold twenty-four (24) hours per day seven (7) days per week. (1994 Code, § 8-239)

8-240. Hours when sale, distribution, etc. prohibited for on-premises consumption. No sale of beer for on-premises consumption shall be made between the hours of 2:00 o'clock A.M. and 8:00 o'clock A.M. on weekdays or between the hours of 3:00 o'clock A.M. and 8:00 o'clock A.M. on Saturday and between 3:00 o'clock A.M. on Sunday and 8:00 o'clock A.M. on the following Monday. (1994 Code, § 8-240, as amended by Ord. #618, April 2000)

8-241. Unauthorized use or consumption of beverages on premises. No licensee whose license authorizes sale for consumption off the premises only shall sell for consumption on the premises.

No sale for consumption on the premises shall be made by any licensee except where meals or lunches are regularly served unless otherwise authorized by his license.

No licensee shall allow any liquors or other beverages of greater than five per cent (5%) by weight to be brought on his premises or consumed thereon, nor shall the possession or sale of liquor be permitted on such premises. (1994 Code, § 8-241)

CHAPTER 3

LIQUOR BY THE DRINK

SECTION

8-301. Definition of alcoholic beverages.

8-302. Consumption of alcoholic beverages on premises.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

8-304. Annual privilege tax to be paid to the city administrator.

8-305. Concurrent sale of liquor by the drink and beer.

8-306. Advertisement of alcoholic beverages.

8-301. 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. (as added by Ord. #658, Feb. 2005)

8-302. 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 the City of South Pittsburg, Tennessee. It is the intent of the mayor and the city commission that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in South Pittsburg, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #658, Feb. 2005)

8-303. 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, § 57-4-301 for the City of South Pittsburg 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 South Pittsburg on alcoholic beverages for consumptions on the premises where sold. (as added by Ord. #658, Feb. 2005)

8-304. Annual privilege tax to be paid to the city administrator. 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 South Pittsburg shall remit annually to the city

administrator the appropriate tax described in § 8-303. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original dated to 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. #658, Feb. 2005)

8-305. Concurrent sale of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of South Pittsburg, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of §§ 8-216 through 8-219 of the Municipal Code of the City of South Pittsburg, Tennessee, qualify to receive a beer permit from the City of South Pittsburg. (as added by Ord. #658, Feb. 2005)

8-306. 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. #658, Feb. 2005)

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.**¹**CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. TAXICABS.
4. CABLE TELEVISION.

CHAPTER 1**MISCELLANEOUS****SECTION**

9-101. "Going out of business" sales.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1994 Code, § 9-101)

¹Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers, street barkers and solicitors.
- 9-206. Restrictions on transient vendors.
- 9-207. Display of permit.
- 9-208. Suspension or revocation of permit.
- 9-209. Expiration and renewal of permit.
- 9-210. Solicitations on public streets.
- 9-211. Prevention of congestion and promotion of safety.
- 9-212. Common theme and advancement of purpose.
- 9-213. Violation and penalty.

9-201. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

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

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

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: section 11-801.

purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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

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

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

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

(5) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

¹State law reference

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

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

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (1994 Code, § 9-201)

9-202. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1994 Code, § 9-202)

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. (1994 Code, § 9-203)

9-204. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city administrator by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

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

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

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

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

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

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

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

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city administrator, the city administrator shall submit to the chief of police a copy of the application form and the permit. (1994 Code, § 9-204, as amended by Ord. #609, Feb. 1999)

9-205. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

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

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

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

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, 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 in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (1994 Code, § 9-205)

9-206. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (1994 Code, § 9-206)

9-207. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (1994 Code, § 9-207)

9-208. Suspension or revocation of permit. (1) Suspension by the city administrator. The permit issued to any person or organization under this chapter may be suspended by the city administrator for any of the following causes:

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and commissioners.

The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and commissioners, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city administrator in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1994 Code, § 9-208, as amended by Ord. #609, Feb. 1999)

9-209. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1994 Code, § 9-209)

9-210. Solicitations on public streets. Roadblocks for solicitation shall be subject to the following conditions.

(1) Persons wishing to solicit contributions on public streets shall first obtain a permit from the city administrator. No more than one permit shall be issued at a time. There shall be no charge for such permit.

(2) All parties involved in soliciting contributions shall wear a fluorescent vest or other clothing approved by the board.

(3) Persons under eighteen (18) years of age shall be accompanied by an adult.

(4) Police officers may stop persons who are soliciting in violation of this section.

(5) Violations of this section shall be punishable under the general penalty clause of this municipal code. (1994 Code, § 9-210)

9-211. Prevention of congestion and promotion of safety. No peddler, street barker, solicitor for charitable purposes, or solicitor for subscriptions shall be permitted to operate in a congested area where such operation might impede, inconvenience, endanger or detrimentally affect the

health, morals, comfort, safety, convenience and welfare of the public. For the purpose of this section, the objective judgment of the city administrator exercised in good faith, shall be deemed conclusive as to whether the area is congested and the safety of the public impeded, inconvenienced, endangered or detrimentally affected. (Ord. #609, Feb. 1999)

9-212. Common theme and advancement of purpose. In order to advance a common theme and/or to promote the underlying purpose of a recognized festival or parade days in the city, the city shall regulate the goods, wares and/or merchandise sold by peddlers, street barkers, solicitors, solicitors for charitable purposes, or solicitors for subscriptions to prevent an overabundance of pedestrian or vehicular traffic at such festival or parade days so as to protect the health, morals, security and general welfare of the citizens of the city and those attending such festival or parade days. In making decisions regarding the issuance of permits, the city administrator may take into account the number of such peddlers, street barkers, solicitors, solicitors for charitable purposes, or solicitors for subscriptions, and the types of goods, wares and/or merchandise to be sold in order to prevent an overabundance of the same type of goods, wares and/or merchandise being sold and to promote a variety of goods, wares and/or merchandise sold in order to appeal to a wider segment of the citizenry, thereby increasing the likelihood that a wider segment of the citizenry will attend such recognized festivals or parade days within the city, to promote the integrity and theme of such festival or parade days thereby promoting the general welfare of the citizens of the City of South Pittsburg, Tennessee. For the purpose of this section, the objective judgment of the city administrator, exercised in good faith, in deciding upon the issuance of permits, shall be deemed conclusive in the regulation of goods, wares and/or merchandise to prevent an overabundance of like kind goods, wares and/or merchandise being sold at recognized festivals or parade days in the city. (Ord. #609, Feb. 1999)

9-213. 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 provision of this municipal code of ordinances. (1994 Code, § 9-211)

CHAPTER 3

TAXICABS

SECTION

- 9-301. Definitions.
- 9-302. Certificate of public convenience and necessity required.
- 9-303. Application for certificate.
- 9-304. Public hearing.
- 9-305. Liability insurance required.
- 9-306. License fees and permit fees for certificates.
- 9-307. Transfer of certificates.
- 9-308. Suspension and revocation of certificates.
- 9-309. Taxicab driver's license.
- 9-310. Application for driver's license.
- 9-311. Consideration of application.
- 9-312. Issuance of license--duration--annual fee.
- 9-313. Display of license.
- 9-314. Suspension and revocation of license.
- 9-315. Vehicles must be approved.
- 9-316. Periodic inspections.
- 9-317. Vehicles must be kept in a clean and sanitary condition.
- 9-318. Designation of taxicabs.
- 9-319. Receipts.
- 9-320. Refusal of passenger to pay legal fare.
- 9-321. Receipt and discharge of passengers on sidewalk only.
- 9-322. Additional passengers.
- 9-323. Restriction on number of passengers.
- 9-324. Refusal to carry orderly passengers prohibited.
- 9-325. Prohibition of drivers.
- 9-326. Prohibition of passengers.
- 9-327. Open stands--establishment--use.
- 9-328. Call box stands--establishment--use.
- 9-329. Prohibition of other vehicles.
- 9-330. Taxicab service.
- 9-331. Manifests.
- 9-332. Accidents.
- 9-333. Police department--duty to enforce chapter.
- 9-334. Waiver of search warrant for search of taxicabs.

9-301. Definitions. The following words and phrases when used in this chapter have the meanings as set out herein:

- (1) "City" means the City of South Pittsburg, Tennessee.

(2) "Call box stand" means a place alongside a street, or where the city recorder has authorized a holder of a certificate of public convenience and necessity to install a telephone or call box for taking calls and the dispatching of taxicabs.

(3) "Certificate" means a certificate of public convenience and necessity issued by the city recorder, authorizing the holder thereof to conduct a taxicab business in the city.

(4) "Cruising" means the driving of a taxicab on the streets, alleys, or public places of the city in search of, or soliciting prospective passengers for hire.

(5) "Driver's license" means the permission granted by the city recorder to a person to drive a taxicab upon the streets of the city.

(6) "Holder" means a person to whom a certificate of public convenience and necessity has been issued.

(7) "Manifest" means a daily record prepared by a taxicab driver of all trips made by said driver showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

(8) "Open stand" means a public place alongside the curb of a street or elsewhere in the city which has been designated by the city recorder as reserved exclusively for the use of taxicabs.

(9) "Person" includes an individual, a corporation or other legal entity, a partnership, and any unincorporated association.

(10) "Rate card" means a card issued by the city recorder for display in each taxicab which contains the rates of fare then in force.

(11) "Taxicab" means a motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than six (6) persons and not operated on a fixed route.

(12) "Taximeter" means a meter instrument or device attached to a taxicab which measures mechanically the distance driven and the waiting time upon which the fare is based.

(13) "Waiting time" means the time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act or fault of a passenger or passengers.

(14) "Board" means the board of mayor and commissioners of the City of South Pittsburg, Tennessee. (1994 Code, § 9-301)

9-302. Certificate of public convenience and necessity required.

No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a certificate of public convenience and necessity from the city recorder. (1994 Code, § 9-302)

9-303. Application for certificate. An application for a certificate shall be filed with the city recorder upon forms provided by the city. The

application shall be verified under oath and shall furnish the following information:

- (1) The name and address of the applicant.
- (2) The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments.
- (3) The experience of the applicant in the transportation of passengers.
- (4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate.
- (5) The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.
- (6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (7) Such further information as the city recorder of the city may require. (1994 Code, § 9-303)

9-304. Public hearing. Upon the filing of an application for a certificate, the city recorder shall fix a day and hour for a public hearing thereon to be held in his office. Such date shall be not less than five (5) days nor more than ten (10) days after date of filing of the application. Notice of the date and hour of the hearing shall be given to the applicant simultaneously with the filing of the application. Not less than five (5) days notice of the hearing shall be given to all persons to whom certificates have theretofore been issued by the city. Notice shall also be given the general public by posting notice of the date and hour of the hearing in the front window of the city hall on the date the application is filed. At the time of the hearing the city recorder shall examine under oath the applicant, and any witnesses he may offer in his behalf, upon the question of necessity from the standpoint of public welfare and necessity for the issuance of a certificate to applicant and of applicant's fitness and qualifications to receive and hold a certificate under the terms, intents and purposes of this chapter. If persons appear at the hearing to protest the issuance of the certificate, the city recorder shall likewise examine them under oath upon the grounds and reasons of protest. At the hearing the city recorder shall make a concise summary of the testimony of each person who testifies and cause the same to be signed by such person, and, when so done and completed, the same shall constitute the entire record of the facts of the hearing, and shall remain on file in the city recorder's office. At the conclusion of the hearing, the city recorder shall announce to those in attendance the date and hour of submission of his report upon the hearing to the board. The date of submission of the report to the next regular or special meeting of the board shall not be less than five (5) days after such public hearing. Simultaneously the city recorder shall post a notice of the date and hour of submission of his report to the board in a front window of the city hall. Within three (3) days thereafter, the city recorder shall prepare in writing his report and recommendations to the board and shall hold

the same on file in his office during regular office hours and open for inspection of same by the applicant, any and all parties protesting, and members of the general public. In his report to the board, the city recorder shall set out:

- (1) The name of the applicant.
- (2) Applicant's fitness and ability to comply with the provisions of this chapter.
- (3) The necessity for such service from the standpoint of the public convenience and welfare.
- (4) The names of the person or persons testifying in applicant's behalf and the names of the person or persons testifying adverse to him.
- (5) The names of any persons not appearing at the hearing but who have filed protests in writing.
- (6) Recommendation as to granting or rejecting of the application.

To this report the city recorder shall attach the factual record made up at the hearing. The applicant, or any person appearing at the hearing in protest of the granting of the application, or any member of the public may file and present in writing exceptions to the report of the city recorder at the meeting of the board to which the same shall be presented. Upon consideration of the report of the city recorder, and any exceptions that may have been filed thereto, the board shall proceed to accept or reject the same and cause its action to be entered in the minutes. If, upon consideration of the report and record presented it, the board finds and orders that the application should be granted, then the city recorder shall issue and deliver to the applicant the certificate herein provided for. (1994 Code, § 9-304)

9-305. Liability insurance required. No certificate shall be issued or continued in operation unless there is in full force and effect at all times, an insurance policy issued by some reliable and approved insurance company qualified to do business in the State of Tennessee for each vehicle authorized in the amount of one hundred thirty thousand dollars (\$130,000.00) for bodily injury to any one person; in the amount of three hundred fifty thousand dollars (\$350,000.00) for bodily injury to more than one person which is sustained in the same accident, and fifty thousand dollars (\$50,000.00) for property damage resulting from any one accident. Said insurance shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, his servants or agents. Said insurance policy or policies shall be filed in the office of the city recorder. (1994 Code, § 9-305)

9-306. License fees and permit fees for certificates. No certificate shall be issued or continued in operation unless the holder has paid the regular annual license required otherwise for operation of a taxicab business and, in addition, paid a special permit fee to the city recorder of one dollar (\$1.00) for each vehicle to be operated hereunder, said permit fee to be in addition to the

regular privilege license, and to be deposited into the general fund by the city recorder. (1994 Code, § 9-306)

9-307. Transfer of certificates. No certificate may be sold, assigned, mortgaged or otherwise transferred without the consent of the board. (1994 Code, § 9-307)

9-308. Suspension and revocation of certificates. A certificate issued under the provisions of this chapter may be revoked or suspended by the city recorder if the holder thereof has:

- (1) Violated any of the provisions of this chapter.
- (2) Discontinued operations for more than ten (10) days.
- (3) Has violated any ordinances of the city or the laws of the United States or the State of Tennessee, the violation of which reflect unfavorably on the fitness of the holder to offer public transportation.

Prior to any suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard. (1994 Code, § 9-308)

9-309. Taxicab driver's license. No person shall operate a taxicab for hire upon the streets of the city, and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the city shall be so driven for hire, unless the driver of said taxicab shall have first obtained and shall have then in force a Class D driver's license with a for-hire endorsement issued by the State of Tennessee and the driver's license hereinafter provided for.¹ (1994 Code, § 9-309)

9-310. Application for driver's license. An application for a taxicab driver's license shall be filed with the city recorder on forms provided by the city. Such application shall be verified under oath and shall contain the following information:

- (1) The names and addresses of four residents of the city who have known the applicant for a period of two years and who will vouch for the sobriety, honesty, and general good character of the applicant.
- (2) The experience of the applicant in the transportation of passengers.
- (3) The educational background of the applicant.
- (4) A concise history of his employment.

Each application shall be accompanied by a certificate from a reputable physician of the city certifying that, in his opinion, the applicant is not afflicted with any disease or infirmity which might make him an unsafe and

¹State law reference

Tennessee Code Annotated, § 55-50-102.

unsatisfactory driver. At the time the application is filed the applicant shall pay to the city recorder the sum of twenty dollars (\$20.00), which shall be deposited into the general fund. (1994 Code, § 9-310)

9-311. Consideration of application. The city recorder, upon consideration of the application and the reports and certificate required to be attached thereto, shall approve or reject the application. If the application is rejected the applicant may request a personal appearance before the board to offer evidence why his application should be reconsidered. (1994 Code, § 9-311)

9-312. Issuance of license--duration--annual fee. Upon approval of an application for a taxicab driver's license the city recorder shall issue a license to the applicant which shall bear the name, address, color, age, signature and photograph of the applicant. Such license shall be in effect for the remainder of the calendar year. A license for every calendar year thereafter shall be issued upon the payment of twenty dollars (\$20.00) unless the license for the preceding year has been revoked. (1994 Code, § 9-312)

9-313. Display of license. Every driver licensed under this chapter shall post his driver's license in such a place as to be in full view of all passengers while such driver is operating a taxicab. (1994 Code, § 9-313)

9-314. Suspension and revocation of license. The city recorder is hereby given the authority to suspend any driver's license issued under this chapter for such driver's failing or refusing to comply with the provisions of this chapter. Such suspension shall last for a period of not more than sixty (60) days. The city recorder is also given authority to revoke any driver's license for failure to comply with the provisions of this chapter. However, a license may not be revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf. (1994 Code, § 9-314)

9-315. Vehicles must be approved. Prior to the use and operation of any vehicle under the provisions of this chapter such vehicle shall be thoroughly examined and inspected by the police department and found to comply with such reasonable rules and regulations as may be prescribed by the board. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the board shall deem necessary therefor. When the police department finds that a vehicle has met the standards established by the board, the department shall issue a report to the city recorder to that effect, which report shall also state the authorized seating capacity of the vehicle. (1994 Code, § 9-315)

9-316. Periodic inspections. Every vehicle operating under this chapter shall be periodically inspected by members of the police department at

such intervals as shall be established by the direction of the chief of police to insure the continued maintenance of safe operating conditions. (1994 Code, § 9-316)

9-317. Vehicles must be kept in a clean and sanitary condition.

Every vehicle operating under this chapter shall be kept in a clean and sanitary condition according to rules and regulations promulgated by the board. (1994 Code, § 9-317)

9-318. Designation of taxicabs. Each taxicab shall bear on each side of the outside, in painted letters not less than two (2) inches nor more than four (4) inches in height, the name of the owner and, in addition, may bear an identifying design approved by the city recorder. No vehicle covered by the terms of this chapter shall be licensed when its color scheme, identifying design, monogram, or insignia shall, in the opinion of the city recorder, conflict with or imitate that used on a vehicle or vehicles already operating under this chapter in such a manner as to mislead or tend to deceive or defraud the public. If, after a license and permit or certificate has been issued for a taxicab hereunder, the color scheme, identify such manner as to be misleading or tend to deceive the public, the license, permit or certificate covering such taxicab or taxicabs shall be suspended or revoked. (1994 Code, § 9-318)

9-319. Receipts. The driver of any taxicab shall, upon demand of any passenger, render to such passenger a receipt for the amount charged either by a mechanically printed receipt or by a specially prepared receipt upon which shall be the name of the taxicab owner, the taxicab license number or motor number, the meter reading or charges, and the date of the transportation. (1994 Code, § 9-319)

9-320. Refusal of passenger to pay legal fare. It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this chapter after having hired the same. It shall also be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service. (1994 Code, § 9-320)

9-321. Receipt and discharge of passengers on sidewalk only. Drivers of taxicabs shall not receive or discharge passengers in the roadway. They shall pull up to the right-hand sidewalk as nearly as possible, or in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers. Upon one-way streets, passengers may be discharged at either the right or left-hand sidewalk, or side of the roadway in the absence of a sidewalk. (1994 Code, § 9-321)

9-322. Additional passengers. No driver of an engaged taxicab shall permit any other person to occupy or ride in said taxicab, unless the person or persons first employing the taxicab shall consent to the acceptance of such additional passenger or passengers. (1994 Code, § 9-322)

9-323. Restriction on number of passengers. No driver shall permit more than five (5) persons to be carried in a taxicab as passengers. A child in arms shall not be counted as a passenger. (1994 Code, § 9-323)

9-324. Refusal to carry orderly passengers prohibited. No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so. (1994 Code, § 9-324)

9-325. Prohibition of drivers. It shall be a violation of this chapter for any driver of a taxicab to engage in selling or transporting intoxicating liquors or solicit business for any house of ill repute or use his vehicle for any purpose other than the transportation of passengers. (1994 Code, § 9-325)

9-326. Prohibition of passengers. It shall be unlawful for the driver of a taxicab to permit any person or persons to stand or sit on any outside part of such vehicle while the same is in motion, and it shall be unlawful for any person to stand or sit on any outside part of such vehicle when the same is in motion. (1994 Code, § 9-326)

9-327. Open stands--establishment--use. The board is hereby authorized and empowered to establish open stands in such place or places upon the streets of the city as it deems necessary for the use of taxicabs operated in the city. Said board shall not create an open stand without taking into consideration the need for such stands by the companies and the convenience of the general public. The board shall prescribe the number of taxicabs that shall occupy such open stands. The board shall not create an open stand in front of any place of business where the abutting property owners object to the same or where such stand would tend to create a traffic hazard.

Open stands shall be used by the different drivers on a first come, first served basis. The driver shall pull on to the open stand from the rear and shall advance forward as the cabs ahead pull off. Drivers shall stay within five (5) feet of their cabs. They shall not solicit passengers or engage in loud or boisterous talk while at an open stand. Nothing in this chapter shall be construed as preventing a passenger from boarding the cab of his choice that is parked at open stands. (1994 Code, § 9-327)

9-328. Call box stands--establishment--use. The board is hereby authorized and empowered to establish call box stands upon the streets of the

city in such places as in its discretion it deems proper. A holder desiring to establish a call box stand must make written application to the board. The applicant must attach to the application the written approval of the abutting property owners of said space, consenting to the creation of such stand. Upon filing of the application the police department shall make an investigation of the traffic conditions at said place and shall thereafter file their written recommendation with the board. The board shall then either grant or refuse the application. When a call box stand has been established as herein provided, it shall be used solely by the holder to whom the same was granted and his agents and servants and no other holder shall be permitted to use the same. However, no holder shall obtain a permit for more than one such closed stand within the limits of Cedar and Elm Avenues between First (1st) and Seventh (7th) Streets. When the call box stand is in a parking meter area the holder shall pay a rental of ten dollars (\$10.00) per month, in advance.

A holder operating a call box stand as provided for in this chapter shall be allowed to have on duty at such stand a starter or other employee for the purpose of assisting in the loading or unloading of passengers from cabs, for receiving calls and dispatching cabs, and for soliciting passengers at such stand. The words "at such stand" shall mean that part of the sidewalk immediately adjacent to and of equal length with such call box stand. It shall be unlawful for any such starter or other employee to go beyond the area herein designated for the purpose of soliciting passengers or assisting them in boarding such cabs. (1994 Code, § 9-328)

9-329. Prohibition of other vehicles. Private or other vehicles for hire shall not at any time occupy the space upon the streets that has been established as either open stands or call box stands. (1994 Code, § 9-329)

9-330. Taxicab service. All persons engaged in the taxicab business in the city and operating under the provisions of this chapter shall render an over-all service to the public desiring to use taxicabs. Holders of permits or certificates of public convenience and necessity shall maintain a central place of business and keep the same open twenty-four (24) hours a day for the purpose of receiving calls and dispatching cabs. They shall answer all calls received by them for services inside the corporate limits of the city as soon as they can do so, and, if said services cannot be rendered within a reasonable time they shall then notify the prospective passengers how long it will be before the said call can be answered and give the reason therefor. Any holder who shall refuse to accept a call anywhere in the corporate limits of the city at any time when such holder has an available cab or cabs, or who shall fail or refuse to give over-all service, shall be deemed a violator of this chapter and the permit or certificate granted to such holder shall be revoked at the discretion of the city recorder. (1994 Code, § 9-330)

9-331. Manifests. Every driver shall maintain a daily manifest upon which is recorded all trips made each day, showing time and place of origin and destination of each trip and amount of fare. All such completed manifests shall be returned to the owner by the driver at the conclusion of his tour of duty. The forms for such manifests shall be furnished to the driver by the owner and shall be of a character approved by the city recorder.

Every holder of a permit or certificate of public convenience and necessity shall retain and preserve all driver's manifests in a safe place for at least six (6) months following the date of same, and said manifests shall be available to the police department. (1994 Code, § 9-331)

9-332. Accidents. All accidents arising from or in connection with the operation of taxicabs which result in death or injury to any person, or in damage to any vehicle or to any property in an amount exceeding the sum of twenty-five dollars (\$25.00) shall be reported within twenty-four (24) hours from the time of occurrence to the police department in a form of report to be furnished by said department. (1994 Code, § 9-332)

9-333. Police department--duty to enforce chapter. The police department of the city is hereby given the authority and is instructed to watch and observe the conduct of holders and drivers operating under this chapter. Upon discovering a violation of the provisions of this chapter, the police department shall report the same to the city recorder who shall then take appropriate action. (1994 Code, § 9-333)

9-334. Waiver of search warrant for search of taxicabs. By his application for a certificate each owner and/or operator of a taxicab, and likewise by his application for a driver's license, each driver, conclusively warrants and guarantees that each and all of the vehicles owned by him or operated and driven by him as taxicabs will not be used in any manner, way, or method, to aid, abet, encourage, or assist in the violation of laws prohibiting pandering, prostitution, or possession, sale, or transportation of intoxicating beverages. To the end that this warranty and guaranty may be effective, any person granted a certificate hereunder, or granted a driver's license hereunder, thereby waives the issuance and service of a search warrant as a condition precedent to the search of his taxicab or any taxicab driven by him, by any member of the police department of the city. He also agrees that, in any criminal prosecution that may follow as a result of such search, he will not plead the lack of a search warrant as a defense. These provisions shall relate only to prosecutions and trial of cases before the city recorder for violations of ordinances of the city. (1994 Code, § 9-334)

CHAPTER 4

CABLE TELEVISION

SECTION

9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television shall be furnished to the City of South Pittsburg and its inhabitants under franchise granted to Sequatchie Valley Cablevision of the South, Inc. by the board of mayor and commissioners of the City of South Pittsburg, Tennessee. The rights, powers, duties and obligations of the City of South Pittsburg and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹ (1994 Code, § 9-401)

¹For complete details relating to the cable television franchise agreement see Ord. #373, June 1978, and Ord. #387, Nov. 1979 in the office of the city recorder.

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS.
3. PIT BULLS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Impoundment of animals and fowls running at large.
- 10-108. Violation and penalty.

10-101. Running at large prohibited.¹ It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, rabbits, mules, goats, or any chickens, ducks, geese, turkeys, or other animals or fowl, either domesticated or non-domesticated, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions under this chapter, whether or not the disposition includes returning the animal to its owner. (1994 Code, § 10-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand (1,000) feet of any residence or place of business without the approval of the South Pittsburg Chief of Police. The South Pittsburg Chief of Police shall grant such approval only when in his sound judgment the keeping of such animals and/or fowls under the circumstances as set forth in the application for

¹See also § 10-203 in this code for provisions prohibiting dogs specifically from running at large.

the permit will not injuriously affect the public health and welfare. (1994 Code, § 10-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1994 Code, § 10-103)

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

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1994 Code, § 10-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1994 Code, § 10-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1994 Code, § 10-106)

10-107. Impoundment of animals and fowls running at large.¹ Any animal or fowl found running at large within the corporate limits shall be impounded by the health officer or police department. Immediately thereupon a notice of such impoundment shall be given to the owner if known. If the owner is not known or cannot be determined upon diligent inquiry a notice describing the impounded animal or fowl shall be posted in at least three public places within the corporate limits. The notice of impoundment shall advise the owner that he must claim his impounded animal or fowl and pay reasonable advertising, impoundment, and maintenance fees within five (5) days or such animal or fowl will be humanely destroyed, sold, or otherwise disposed of by the city.

The proceeds of any sale under this section shall be applied first to the payment of reasonable advertising, impoundment, and maintenance fees. The balance, if any, shall be paid to the owner of the animal or fowl, if known, otherwise to the general fund of the city. (1994 Code, § 10-107)

¹This section does not apply to dogs. See § 10-206 for provisions dealing specifically with impoundment of dogs.

10-108. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. Each day the violation shall continue shall constitute a separate offense. (1994 Code, § 10-108, modified)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs and cats to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs or cats to be securely restrained.
- 10-205. Noisy dogs or cats prohibited.
- 10-206. Impoundment and/or destruction of dogs or cats.
- 10-207. Animals prohibited from city recreational parks.
- 10-208. Violation and penalty.
- 10-209. Vaccination penalty.

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

In addition to compliance with the state law, each person who owns, keeps, or harbors a dog or cat within the corporate limits shall submit evidence of such compliance and register his dog or cat with the city recorder. Upon such registration and payment of a five dollar (\$5.00) registration fee the recorder shall issue a registration certificate and tag for each dog or cat registered. (1994 Code, §-10-201)

10-202. Dogs and cats to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1994 Code, § 10-202)

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits. (1994 Code, § 10-203)

10-204. Vicious dogs or cats to be securely restrained. It shall be unlawful for any person to own or keep any dog or cat known to be vicious or dangerous unless such dog or cat is so confined and/or otherwise securely

¹State law reference

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

restrained as reasonably to provide for the protection of other animals and persons. (1994 Code, § 10-204)

10-205. Noisy dogs or cats prohibited. No person shall own, keep, or harbor any dog or cat which, by loud and frequent barking, whining, or howling, or other noises, annoys or disturbs the peace and quiet of any neighborhood. (1994 Code, § 10-205)

10-206. Impoundment and/or destruction of dogs or cats. Dogs or cats running at large will be impounded by city policemen and/or other designated city employees. If the owner of an impounded dog or cat can be identified after diligent inquiry such owner shall be notified by a postcard addressed to his last known address to appear within five (5) days and redeem his dog or cat by paying a pound fee or his dog or cat will be destroyed or otherwise disposed of in a humane manner. The pound fee referred to in this section shall be determined based on the following schedule:

Upon any impoundment of any dog or cat of the owner, the impoundment fee shall be fifty dollars (\$50.00) per day.

If the dog or cat is not wearing a tag, the dog or cat shall be destroyed unless legally claimed by the owner within five (5) days.

When, because of its viciousness or apparent infection with rabies, a dog or cat found running at large cannot be impounded in reasonable safety such dog or cat may be summarily destroyed by any policeman or other authorized city employee. (1994 Code, § 10-206, as amended by Ord. #601, April 1998, Ord. #678, May 2006, and Ord. #713, Nov. 2009)

10-207. Animals prohibited from city recreational parks. It shall be unlawful for any person to bring into any city recreational park any dog, cat, or other animal, whether or not such animal is restrained, or to allow any dog, cat, or other animal owned by such person to be brought into any city recreational park. This section shall not apply to any dog which is trained for and used by any person who is visually impaired. (Ord. #617, Nov. 1999)

10-208. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. Each day the violation shall continue shall constitute a separate offense. (1994 Code, § 10-207, modified)

10-209. Vaccination penalty. Pursuant with Tennessee Code Annotated, § 68-8-109, all impounded dogs and cats must be vaccinated before release. A penalty of ten dollars (\$10.00) will be charged to dog and cat owners of impounded unvaccinated dogs and cats for escorting the animal to a veterinary clinic for vaccination prior to release. (1994 Code, § 10-208)

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, terms, and phrases, and their derivations as used in this chapter, except where the context clearly indicates otherwise, shall have the following meanings:

(1) "Impoundment" means the taking or picking up and confining of an animal by any police officer, animal control officer or any other public officer under the provisions of this chapter.

(2) "Muzzle" means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

(3) "Owner" means any person, partnership, corporation or other legal entity owning, harboring or possessing any pit bull, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. A pit bull shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.

(4) "Pit bull" means and includes any of the following dogs:

- (a) The bull terrier breed of dog;
- (b) The Staffordshire bull terrier breed of dog;
- (c) The American pit bull terrier breed of dog;
- (d) The American Staffordshire terrier breed of dog;
- (e) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bull, pit bull dogs or pit bull terriers; and

(f) Any dog which has the appearance and characteristics of being predominantly of the breeds of dogs known as 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.

(5) "Predominantly" means knowledge through identification procedures or otherwise, or admission by owner, keeper, or harborer that the

dog is more than fifty percent (50%) pit bull. Predominantly also means that the dog exhibits the physical characteristics of a pit bull more than that of any other breed of dog.

(6) "Sanitary condition" means a condition of good order and cleanliness to minimize the possibility of disease transmission.

(7) "Under restraint" means that the dog is secured by a leash, led under the control of a person physically capable of restraining the dog and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises. (as added by Ord. #687, June 2007)

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 the City of South Pittsburg, Tennessee. Provided, however, that persons owning such dogs at the time this chapter is adopted shall be allowed to keep them, provided that they comply with all of the provisions of this chapter, including § 10-303, within thirty (30) days of the effective date of this chapter. (as added by Ord. #687, June 2007)

10-303. Standards and requirements. The following standards and requirements apply to pit bull dogs located within the corporate limits of the City of South Pittsburg, Tennessee.

(1) **Registration.** Each owner, keeper, harborer, or possessor of a pit bull dog shall register such dog with the city recorder.

(2) **Leash.** No person having charge, custody, control, or possession of a pit bull shall permit the dog to go outside its kennel, pen, or other proper enclosure unless such dog is securely leashed with a leash no longer than four feet (4') 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.

(3) **Muzzle.** It is unlawful for any owner or keeper of a pit bull to allow the dog to be outside its kennel, pen, or other proper enclosure unless it is necessary for the dog to receive veterinary care. In such cases, the dog must wear a properly fitted muzzle sufficient to prevent such dog from biting persons or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

(4) **Confinement.** Except when leashed and muzzled as provided in this section, all pit bull dogs shall be securely confined indoors or confined in a locked pen, kennel, or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. 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 feet (2'). All structures erected to house pit bull dogs must comply with zoning and building ordinances and regulations of the City of South Pittsburg, Tennessee. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, be adequately lighted and ventilated and kept in a clean and sanitary condition.

(5) 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.

(6) 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 must be posted on the kennel or pen of such animal.

(7) 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 one hundred thousand dollars (\$100,000.00) 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.

(8) Identification photographs. All owners, keepers, possessors, or harborers of pit bull dogs must provide to the city recorder two (2) color photographs of the dog clearly showing the color and approximate size of the animal.

(9) Reporting requirements. All owners, keepers, possessors, or harborers 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. #687, June 2007)

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 South Pittsburg, Tennessee 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 South Pittsburg, Tennessee. (as added by Ord. #687, June 2007)

10-305. Animals born of registered dogs. All offspring born of pit bull dogs within the City of South Pittsburg, Tennessee must be removed from the City of South Pittsburg, Tennessee within six (6) weeks of the birth of such animal. (as added by Ord. #687, June 2007)

10-306. Rebuttable presumptions. There shall be a rebuttable presumption that any dog registered within the City of South Pittsburg, Tennessee as a pit bull dog or any of those breeds defined by § 10-301 of this chapter is in fact a dog subject to the requirements of this code. (as added by Ord. #687, June 2007)

10-307. Failure to comply. It shall be unlawful for the owner, keeper, harborer, or possessor of a pit bull dog within the City of South Pittsburg, Tennessee to fail to comply with the provisions of this chapter. Any dog found to be the subject of a violation of this chapter 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 South Pittsburg, Tennessee. (as added by Ord. #687, June 2007)

10-308. Violations and penalties. Any persons violating or permitting the violation of any provision of this chapter shall be guilty of a civil offense, and upon conviction shall be subject to the fine prescribed in the general penalty clause of the South Pittsburg Municipal Code. Each day such violation shall continue constitutes a separate offense. In addition to the foregoing penalty, any person who violates this chapter 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 chapter. (as added by Ord. #687, June 2007)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. FIREARMS, WEAPONS AND MISSILES.
4. INTERFERENCE WITH TRAFFIC.
5. MISCELLANEOUS.
6. LOITERING AND CRUISING.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking beer, etc., on streets, etc.
 11-102. Minors in beer places.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place, unless the place has a beer permit and license for on premises consumption. (1994 Code, § 11-101)

11-102. Minors in beer places. No minor under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1994 Code, § 11-102)

¹Municipal code references

Animal control: title 10.

Housing and utilities: title 12.

Traffic offenses: title 15.

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

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 68-24-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-201. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1994 Code, § 11-201)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplified or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1994 Code, § 11-202)

CHAPTER 3

FIREARMS, WEAPONS AND MISSILES

SECTION

11-301. Air rifles, etc.

11-302. Throwing missiles.

11-303. Discharge of firearms.

11-301. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1994 Code, § 11-301)

11-302. Throwing missiles. It shall be unlawful for any person to maliciously throw any stone, snowball, bottle or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1994 Code, § 11-302)

11-303. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1994 Code, § 11-303)

CHAPTER 4**INTERFERENCE WITH TRAFFIC****SECTION**

11-401. Interference with traffic.

11-401. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct or interfere with the free passage of pedestrian or vehicular traffic thereon. (1994 Code, § 11-401)

CHAPTER 5

MISCELLANEOUS

SECTION

11-501. Abandoned refrigerators, etc.

11-502. Caves, wells, cisterns, etc.

11-503. Posting notices, etc.

11-504. Fortune telling, etc.

11-501. 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. (1994 Code, § 11-501)

11-502. 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. (1994 Code, § 11-502)

11-503. Posting notices, etc. No person shall fasten, in any way, any show-card, poster or other advertising device upon any public or private property unless legally authorized to do so. (1994 Code, § 11-503)

11-504. Fortune telling etc. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1994 Code, § 11-504)

CHAPTER 6

LOITERING AND CRUISING

SECTION

11-601. Definition of "loitering."

11-602. Definition of "cruising."

11-603. Places where loitering and cruising prohibited.

11-604. Violations.

11-601. Definition of "loitering." The term "loitering" as used in this chapter is defined as willfully loafing, lounging, lingering, consorting or remaining idle, with no apparent purpose, either with others or alone, on a public street, public highway, public sidewalk, public parking lot, or any other public place or building when such behavior tends to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians, or when such behavior interferes with the free exercise of commercial trade or other lawful activity in, on or near any such public place. "Loitering" is also defined as the act of parking a vehicle in a commercial parking area without any intent to shop or otherwise conduct business at the commercial establishments for which such parking area is used. "Loitering" is further defined as any behavior in a public place which manifests the purpose of selling or purchasing illegal drugs or effecting a pattern of criminal gang activity, and behavior which is intended to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities. "Loitering" does not include any activity by a person who passively stands or sits without impeding others' use of such place, and in no manner intimidates to uses aggressive behavior. (Ord. #650, Sept. 2003)

11-602. Definition of "cruising." The term "cruising" as used in this chapter is defined as the continual, repeated, and aimless operation of a motor vehicle back and forth, through, around or within the parking areas, and private roadways and other areas of any property after 8:00 P.M. and until the following sunrise other than for the purpose of entering or leaving a parking space where the vehicle has been parked while the driver or passenger(s) is or was visiting the shopping center, business, or recreational facility. (Ord. #634, April 2002)

11-603. Places where loitering and cruising prohibited. It shall be unlawful to loiter or cruise in any public place, including but not limited to, sidewalks, public streets and highways, public parking lots, school playgrounds and public parks and recreation areas. No posting of signs is required for the enforcement of this chapter in such public areas. Business owners maintaining parking areas of customer use may post signs in such parking areas giving notice that loitering and cruising is prohibited. Such posting shall

provide notice that this chapter shall be effective and may be enforced in the parking areas of such businesses. (Ord. #650, Sept. 2003)

11-604. Violations. Any person or persons found to be in violation of this chapter in a public place, or private property where a sign is posted as discussed in the preceding section, shall be issued a citation to the South Pittsburgh Municipal Court and shall be subject to a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) plus court costs. Any vehicle left unattended in a commercial parking area, on which a sign is posted as discussed in the preceding section, whose owner or driver is not a legitimate customer, may be removed at the owner's expense. (Ord. #650, Sept. 2003).

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. FUEL GAS CODE.
4. RESIDENTIAL CODE.
5. MECHANICAL CODE.
6. SLUM CLEARANCE.
7. ICC ELECTRICAL CODE.
8. ENERGY CONSERVATION CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. [Repealed.]
- 12-104. [Repealed.]

12-101. Building code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the International Building Code, 2006 edition, including Appendix Chapter B and excluding chapter 16 sections 1613 through 1623 (see International Building Code section 101.2.1, 2006 edition), as published by the International Code Council, be and is hereby adopted as the building code of the City of South Pittsburg, Tennessee for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore;

¹Municipal 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.

and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-102 of this chapter. (Ord. #638, § Aug. 2002, as amended by Ord. #696, June 2008, and replaced by Ord. #701, Oct. 2008)

12-102. Modifications. The following sections are hereby revised:

Section 101.1. Insert: City of South Pittsburg

Section 1612.3. Insert: City of South Pittsburg

Section 1612.3. Insert: (Date of Issuance)

Section 3410.2. Insert: 15 days of final passage, 5 days after publication

(1994 Code, § 12-102, as replaced by Ord. #701, Oct. 2008)

12-103. [Repealed.] (1994 Code, § 12-103, as repealed by Ord. #701, Oct. 2008)

12-104. [Repealed.] (1994 Code, § 12-104, as repealed by Ord. #701, Oct. 2008)

CHAPTER 2**PLUMBING CODE¹****SECTION**

12-201. Plumbing code adopted.

12-202. Modifications.

12-203. [Repealed.]

12-204. [Repealed.]

12-201. Plumbing code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the International Plumbing Code, 2006 edition, including Appendix Chapter A, as published by the International Code Council, be and is hereby adopted as the plumbing code of the City of South Pittsburg, Tennessee for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-202 of this chapter. (1994 Code, § 12-201, modified, as replaced by Ord. #701, Oct. 2008)

12-202. Modifications. The following sections are hereby revised:

Section 101.1. Insert: City South Pittsburg

Section 106.6.2. Insert: "South Pittsburg Building Permit Schedule", Appendix A3

Section 106.6.3. Insert: 50%, 50%

Section 108.4. Insert: Offense, dollar amount, number of days

Section 108.5. Insert: \$50, as prescribed by law

Section 305.6.1. Insert: 12 inches, 12 inches

Section 904.1. Insert: 6 inches

(1994 Code, § 12-202, as replaced by Ord. #701, Oct. 2008)

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

12-203. [Repealed.] (1994 Code, § 12-203, as repealed by Ord. #701, Oct. 2008)

12-204. [Repealed.] (1994 Code, § 12-204, as repealed by Ord. #701, Oct. 2008)

CHAPTER 3

FUEL GAS CODE¹

SECTION

- 12-301. International Fuel Gas Code adopted.
- 12-302. Modifications.
- 12-303. [Repealed.]
- 12-304. [Repealed.]
- 12-305. [Repealed.]
- 12-306. [Repealed.]
- 12-307. [Repealed.]
- 12-308. [Repealed.]
- 12-309. [Repealed.]
- 12-310. [Repealed.]
- 12-311. [Repealed.]
- 12-312. [Repealed.]

12-301. International Fuel Gas Code adopted.² A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the International Fuel Gas Code, 2006 edition, including Appendix Chapter B and excluding _____, as published by the International Code Council, be and is hereby adopted as the fuel gas code of the City of South Pittsburg, Tennessee for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-302 of this chapter. (1994 Code, § 12-301, as replaced by Ord. #701, Oct. 2008)

12-302. Modifications. The following sections are hereby revised:

- Section 101.1. Insert: City of South Pittsburg
- Section 106.5.2. Insert: Appropriate Schedule
- Section 106.5.3. Insert: 50%, 50%

¹Municipal code reference

Gas system administration: title 19, chapter 1.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Section 108.4. Insert: Specify offense, dollar amount, number of days

Section 108.5. Insert: \$50, as prescribed by law
(1994 Code, § 12-302, modified, as replaced by Ord. #701, Oct. 2008)

12-303. [Repealed.] (1994 Code, § 12-303, as repealed by Ord. #701, Oct. 2008)

12-304. [Repealed.] (1994 Code, § 12-304, as repealed by Ord. #701, Oct. 2008)

12-305. [Repealed.] (1994 Code, § 12-305, as repealed by Ord. #701, Oct. 2008)

12-306. [Repealed.] (1994 Code, § 12-306, as repealed by Ord. #701, Oct. 2008)

12-307. [Repealed.] (1994 Code, § 12-307, as repealed by Ord. #701, Oct. 2008)

12-308. [Repealed.] (1994 Code, § 12-308, as repealed by Ord. #701, Oct. 2008)

12-309. [Repealed.] (1994 Code, § 12-309, as repealed by Ord. #701, Oct. 2008)

12-310. [Repealed.] (1994 Code, § 12-310, as repealed by Ord. #701, Oct. 2008)

12-311. [Repealed.] (1994 Code, § 12-311, as repealed by Ord. #701, Oct. 2008)

12-312. [Repealed.] (1994 Code, § 12-312, as repealed by Ord. #701, Oct. 2008)

CHAPTER 4**RESIDENTIAL CODE****SECTION**

12-401. Residential code adopted.

12-402. Modifications.

12-403. [Repealed.]

12-404. [Repealed.]

12-401. Residential code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the International Residential Code,¹ 2006 edition, as published by the International Code Council, be and is hereby adopted as the residential code of the City of South Pittsburg, Tennessee for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single family dwellings (townhouses) not more than three (3) stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said residential code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-402 of this chapter. (1994 Code, § 12-401, modified, as replaced by Ord. #701, Oct. 2008)

12-402. Modifications. The following sections are hereby revised:

Section R101.1. Insert:	City of South Pittsburg
Section R301.2(I). Insert:	Climatic and Geographic Design Criteria, as specified
Section P2603.6.1. Insert:	Building sewers that connect to private sewage disposal systems shall be a minimum of <u>12</u> inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum of <u>12</u> inches below grade.

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

Section P3103.1. Insert: All open vent pipes which extend through a roof shall be terminated at least 6 inches above the roof or 3 inches above the anticipated snow accumulation ...

Section 3410.2. Insert: 15 days of final passage, 5 days after publication

(1994 Code, § 12-402, as replaced by Ord. #701, Oct. 2008)

12-403. [Repealed.] (1994 Code, § 12-403, as repealed by Ord. #701, Oct. 2008)

12-404. [Repealed.] (1994 Code, § 12-404, as repealed by Ord. #701, Oct. 2008)

CHAPTER 5**MECHANICAL CODE**¹**SECTION**

12-501. Mechanical code adopted.

12-502. Modifications.

12-503. [Repealed.]

12-504. [Repealed.]

12-501. Mechanical code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the International Mechanical Code,² 2006 edition, as published by the International Code Council, be and is hereby adopted as the mechanical code of the City of South Pittsburg, Tennessee for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said mechanical code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-502 of this chapter. (1994 Code, § 12-501, modified, as replaced by Ord. #701, Oct. 2008)

12-502. Modifications. The following sections are hereby revised:

Section 101.1. Insert: City of South Pittsburg

Section 106.5.2. Insert: "South Pittsburg Building Permit Schedule ", Appendix A

Section 106.5.3. Insert: 50%, 50%

Section 108.4. Insert: Offense, dollar amount, number of days

Section 108.5. Insert: \$50, as prescribed law

(1994 Code, § 12-502, as replaced by Ord. #701, Oct. 2008)

¹Municipal 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.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-503. [Repealed.] (1994 Code, § 12-503, as repealed by Ord. #701, Oct. 2008)

12-504. [Repealed.] (1994 Code, § 12-504, as repealed by Ord. #701, Oct. 2008)

CHAPTER 6

SLUM CLEARANCE

SECTION

- 12-601. Purpose.
- 12-602. Definitions.
- 12-603. Public officer designated.
- 12-604. Initiation of proceedings: hearings.
- 12-605. Orders to owners of unfit structures.
- 12-606. Notice of unfit structure.
- 12-607. Building inspector removal or demolition of unfit structure.
- 12-608. Liens for costs of removal or demolition.
- 12-609. Basis for finding of unfitness.
- 12-610. Service of complaints or orders.
- 12-611. Administrative appeal.
- 12-612. Enjoining enforcement of order.
- 12-613. Additional powers of the building inspector.
- 12-614. Powers conferred as supplementary.

12-601. Purpose. Whenever the City of South Pittsburg finds that there exists structures which are unfit for human occupation or use due to dilapidation, defects increasing hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities or due to other conditions rendering such structures unsafe or unsanitary or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of South Pittsburg, the city shall exercise its police powers to repair, close or demolish the aforementioned structure in the manner provided in Tennessee Code Annotated, §§ 13-21-101 through 13-21-110. (1994 Code, § 12-601)

12-602. Definitions. As used in this part, unless the context otherwise requires:

- (1) "Dwelling" - Any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any out-houses and appurtenances belonging thereto or usually enjoyed therewith.
- (2) "Governing body" - The South Pittsburg Board of Mayor and Commissioners.
- (3) "Municipality" - The City of South Pittsburg, Tennessee and the areas encompassed within the existing city limits or as hereinafter annexed.
- (4) "Owner" - The holder of the title in fee simple and every mortgagee of record.

(5) "Parties in interest" - All individuals, associations, corporations and others who have interest of record in a structure and any who are in possession thereof.

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

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

(8) "Public officer" - The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinances.

(9) "Structure" - Any dwelling or place of public accommodation. (1994 Code, § 12-602)

12-603. Public officer designated. The board of mayor and commissioners hereby designates the South Pittsburg building inspector as the public officer to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (1994 Code, § 12-603)

12-604. Initiation of proceedings: hearings. Whenever a petition is filed with the building inspector by any public authority or by at least five (5) residents of South Pittsburg, Tennessee charging that any structure is unfit for human occupation or use, or whenever it appears to the building inspector (on the building inspector's own motion) that any structure is unfit for occupation or use, the building inspector shall, if preliminary investigation discloses a basis for such charges, issue the cause to be served upon the owner of and parties in interest of such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the building inspector (or building inspector's designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint, that:

(1) The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and

(2) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building inspector. (1994 Code, § 12-604)

12-605. Orders to owners of unfit structures. If, after such notice and hearing, the building inspector determines that the structure under consideration is unfit for human occupation or use, the building inspector shall state in writing the building inspector's findings of fact in support of such

determination and shall issue and cause to be served upon the owner thereof an order:

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

(2) If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure (not exceeding fifty per cent (50%) of the reasonable value), requiring the owner, within the time specified in the building inspector's order, to remove or demolish such structure. (1994 Code, § 12-605)

12-606. Notice of unfit structure. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the building inspector may cause such structure to be repaired, altered or improved, or to be vacated and closed; that the building inspector may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (1994 Code, § 12-606)

12-607. Building inspector removal or demolition of unfit structure. If the owner fails to comply with an order to remove or demolish the structure, the building inspector may cause such structure to be removed or demolished. (1994 Code, § 12-607)

12-608. Liens for costs of removal or demolition. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the building inspector shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of Marion County, be a lien on the property in favor of the municipality, second only to the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner though an action for debt filed in any court of competent jurisdiction. The municipality may bring one action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact

that multiple owners have been joined in one action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the building inspector, the building inspector shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Marion County, Tennessee by the building inspector, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of South Pittsburg, Tennessee to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1994 Code, § 12-608)

12-609. Basis for finding of unfitness. The South Pittsburg Building Inspector may determine that a structure is unfit for human occupation or use if the building inspector finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of South Pittsburg. Such conditions may include the following (without limiting the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (1994 Code, § 12-609)

12-610. Service of complaints or orders. Complaints or orders issued by the building inspector, pursuant to this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the building inspector in the exercise of reasonable diligence, and the building inspector shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the municipality, or in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the structure(s) are located. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the register's office of Marion County, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (1994 Code, § 12-610)

12-611. Administrative appeal. All parties in interest may appeal the building inspector's ruling, pursuant to the provisions of this chapter, to the South Pittsburg Board of Mayor and Commissioners at its next regularly scheduled meeting. If the parties in interest of the property do not file the appeal at the next regularly scheduled board of mayor and commissioners

meeting, or do not show cause for extension for the ruling, the ruling of the building inspector shall prevail. (1994 Code, § 12-611)

12-612. Enjoining enforcement of order. Any person affected by an order issued by the building inspector may file a bill in the chancery court of Marion County for an injunction restraining the building inspector from carrying out the provisions of the order, and the court may, upon filing of such bill, issue a temporary injunction restraining the building inspector pending the final disposition of the cause; provided, that within sixty (60) days after the posting and service of the order of the building inspector, such person shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In such proceedings, the findings of the building inspector as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies, and no person affected by an order of the building inspector shall be entitled to recover damages for action taken pursuant to any order of the building inspector, or because of noncompliance by such person with any order of the building inspector. (1994 Code, § 12-612)

12-613. Additional powers of the building inspector. This chapter shall authorize the building inspector to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes of this chapter in addition to the other powers granted herein including:

- (1) Investigate conditions in the municipality in order to determine which structures therein are unfit for human occupation or use;
 - (2) Administer oaths, affirmations, examine witnesses and receive evidence;
 - (3) Enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession;
 - (4) Appoint and fix the duties of such officers, agents and employees as the building inspector deems necessary to carry out the purposes of this chapter; and
 - (5) Delegate any functions and powers of the building inspector under this chapter to such officers and agents as the building inspector may designate.
- (1994 Code, § 12-613)

12-614. Powers conferred as supplementary. Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of South Pittsburg to enforce any provisions of the city charter or its ordinances or regulations, nor to prevent or punish violations thereof, and

the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. (1994 Code, § 12-614)

CHAPTER 7

ICC ELECTRICAL CODE¹

SECTION

12-701. ICC Electrical code adopted.

12-702. Modifications.

12-703. [Repealed.]

12-704. [Repealed.]

12-701. ICC Electrical code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the ICC Electrical Code² – Administrative Provisions, 2006 edition, as published by the International Code Council, be and is hereby adopted as the electrical code of the City of South Pittsburg, Tennessee for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said electrical code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-702 of this chapter. (as replaced by Ord. #701, Oct. 2008)

12-702. Modifications. The following sections are hereby revised:

Section 101.1. Insert: City of South Pittsburg

Section 404.2. Insert: Appropriate Schedule

(as replaced by Ord. #701, Oct. 2008)

12-703. [Repealed.] (as repealed by Ord. #701, Oct. 2008)

12-704. [Repealed.] (as repealed by Ord. #701, Oct. 2008)

¹Municipal 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.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 8

ENERGY CONSERVATION CODE

SECTION

12-801. Energy conservation code adopted.

12-802. Modifications.

12-801. Energy conservation code adopted. A certain document, one (1) copy of which is on file in the Office of the South Pittsburg City Recorder being marked and designated as the International Energy Conservation Code,¹ 2006 edition, as published by the International Code Council, be and is hereby adopted as the energy conservation code of the City of South Pittsburg, Tennessee for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said energy conservation code on file in the Office of the South Pittsburg City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with additions, insertions, deletions and changes, if any, presented in § 12-802 of this chapter. (as added by Ord. #701, Oct. 2008)

12-802. Modifications. The following sections are hereby revised:

Section 101.1. Insert: City of South Pittsburg
(as added by Ord. #701, Oct. 2008)

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

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SATELLITE DISH ANTENNAS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Overgrown and dirty lots.
- 13-106. Dead animals.
- 13-107. Health and sanitation nuisances.

13-101. Health officer. (1) There is hereby created the position of health officer for the City of South Pittsburg, Tennessee.

(2) The position of health officer shall be filled by appointment, upon proper resolution of the board of mayor and commissioners, and the term of said office shall be for a period of one (1) year, commencing on March 1. Any appointment made on a date other than March 1, shall continue until March 1 of the next succeeding year and any person so appointed shall continue to hold the office beyond his term until his successor is duly appointed by the board of mayor and commissioners.

(3) The health officer shall have the authority to enforce and/or regulate all ordinances of the City of South Pittsburg, Tennessee, relating to health matters. (1994 Code, § 13-101)

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

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Wastewater treatment: title 18, chapter 2.

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. (1994 Code, § 13-102)

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 so as to prevent the breeding of mosquitoes. (1994 Code, § 13-103)

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1994 Code, § 13-104)

13-105. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-19-101, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or accumulations of debris, trash, litter, junk automobiles and vehicles, junk appliances, junk equipment, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-19-101, it shall be unlawful for a commercial unit, as defined as "all premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the city, not a residential unit," to place commercial refuse, defined as "garbage generated by a producer at a commercial unit, including bulky waste, construction debris, and stable matter" for collection at the expense of the City of South Pittsburg.

(2) Designation of public officer. The South Pittsburg Board of Mayor and Commissioners hereby designates the South Pittsburg Chief of Police as the enforcement officer for the provisions of this section.

(3) Notice to property owner. It shall be the duty of the chief of police to serve notice upon the owner of record in violation of section 1 above, a notice in plain language to remedy the condition within ten (10) days, excluding Saturdays, Sundays and legal holidays. If the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage or other materials the notice shall be in plain language to remedy the condition within twenty (20) days, excluding Saturdays, Sundays and legal holidays. The notice shall be issued in person to the property owner or shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record.

The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of this section and that the property of such owner shall be cleaned-up at the expense of the owner;

(b) The person, office, address and telephone number of the chief of police; and

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

(4) Penalties for Violation. If the property owner of record fails or refuses to remedy the condition within ten (10) days after the notice [twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage or other materials], the chief of police shall immediately cause the property owner to be issued a misdemeanor violation citation. Upon conviction, any person violating the provisions of this section shall be fined not less than two (\$2.00) nor more than fifty (\$50.00) dollars for each offense. Each day such violations continue shall constitute a separate offense.

(5) Appeal. The owner of record who is aggrieved by the determination and order of the chief of police may appeal the determination and order to the South Pittsburg Board of Mayor and Commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to section 3 above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(6) Judicial review. Any person aggrieved by an order or act of the South Pittsburg Board of Mayor, and Commissioners under section (5) above may seek judicial review of the order or act. The time period established in section 4 above shall be stayed during the pendency of judicial review.

(7) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for any other provision in the municipal charter, the municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of the municipal code or any other applicable law.

(8) Definition of junk. For the purposes of this section the term "junk", in section 1 and 7, shall be defined as follows:

Junk. Any automobile, vehicle, appliance or equipment which is incapable of being operated under its own power. (1994 Code, § 13-105)

13-106. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify

the health officer and dispose of such animal in such manner as the health officer shall direct. (1994 Code, § 13-106)

13-107. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1994 Code, § 13-107)

CHAPTER 2

SATELLITE DISH ANTENNAS

SECTION

13-201. Regulations.

13-201. Regulations. Satellite dish antennas, subject to the following regulations, may be located within the City of South Pittsburgh.

(1) Satellite dish antennas shall be located in the rear yard and behind the principal dwelling of structure located on the lot; are not closer than ten (10) feet from the base of antenna to any lot line; are not on an easement; and do not cover more than thirty (30) percent of any required rear yard; or

(2) Satellite dish antennas may be located on a corner lot provided they observe the following special setback provisions. The placement of a satellite dish antenna must be located on the inside quadrant of the lot, provided that the front yard setback from each street applies and that the structure is properly screened with fencing and/or landscaping.

(3) Satellite dish antennas may be located on a rooftop provided they are properly screened from sight.

(4) A satellite dish antenna may be installed or erected in a location not specified in this chapter provided that the installing technician submits a written notice including a location site plan to the city specifying the proposed placement as the only signal receiving location on the lot from the aforementioned specifications.

(5) Satellite dish antennas are permissible in all commercial districts provided that the placement and installation thereof comply with this chapter.

(6) No installation or erection of a satellite dish antenna shall commence before a permit is obtained from the City of South Pittsburgh. (1994 Code, § 13-201)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MUNICIPAL FLOODPLAIN ORDINANCE.
4. SURVEYS OR RE-SURVEYS OF REAL PROPERTY.
5. BOARD OF ZONING APPEALS.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

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

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is hereby created and established a municipal planning commission, hereinafter referred to as planning commission. The planning commission shall consist of seven (7) members. One (1) of the members shall be the mayor of the municipality, or a person designated by the mayor and one (1) of the members shall be a member of the board of commissioners. All other members shall be appointed by the mayor. All members of the planning commission shall serve with(out) compensation. The initial commission shall be appointed for four (4), three (3), two (2) and one (1) year. Thereafter the terms shall be for four (4) years, except for the term of the mayor and member of board of commissioners whose terms shall expire concurrent with their term of office. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor of the municipality, who shall also have the authority to remove any appointed member at his (her) pleasure. (1994 Code, § 14-101, as replaced by Ord. #705, June 2009)

14-102. Organization, powers, duties, etc. The planning commission shall have such organization, rules, staff, powers, functions, duties, and responsibilities as are prescribed in the general law relating to municipal planning commissions in Tennessee Code Annotated, title 13. (1994 Code, § 14-102, as replaced by Ord. #705, June 2009)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1994 Code, § 14-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the City of South Pittsburg shall be governed by Ordinance Number 536, titled "Zoning Ordinance, South Pittsburg, Tennessee," and any amendments thereto.¹ (1994 Code, § 14-201)

¹Ord. #536, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

MUNICIPAL FLOODPLAIN ORDINANCE

SECTION

- 14-301. Statutory authorization, findings of fact, purpose and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.
- 14-307. Legal status provisions.

14-301. 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 government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of South Pittsburg, Tennessee, Board of Mayor and Commissioners, does ordain as follows:

(2) Findings of fact. (a) The City of South Pittsburg and the board of mayor and commissioners wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3(d) of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (1-0-1-88-Edition) and subsequent amendments.

(b) Areas of the City of South Pittsburg 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) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; and by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which cause in damaging increases in erosion, flood heights, or velocities;

- (b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage;
 - (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate flood waters;
 - (d) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
 - (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards.
- (4) **Objectives.** The objectives of this chapter are:
- (a) To protect human life and health;
 - (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;
 - (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, street and bridges located in floodable areas;
 - (f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas;
 - (g) To ensure that potential buyers are notified that property is in a floodable area; and
 - (h) To establish eligibility for participation in the National Flood Insurance Program. (1994 Code, § 14-301)

14-302. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

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

- (a) Accessory structures shall not be used for human habitation.
- (b) Accessory structures shall be designed to have low flood damage potential.
- (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

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

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

(4) "Appeal" means a request for a review of the building official's interpretation of any provision of this chapter or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(6) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (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.

(7) "Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

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

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

(10) "Building" for purposes of this section, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "structure")

(11) "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, excavation or drilling operations, or storage of equipment or materials.

(12) "Elevated building" means a non-basement building (a) built to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), (b) and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-20, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

(13) "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.

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

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of this chapter.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for serving 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 before the effective date of this chapter.

(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 administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

(21) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood related erosion areas having special hazards have been designated as Zone A, M, and/or E.

(22) "Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

(23) "Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Boundary Map and the water surface elevation of the base flood.

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

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

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

(27) "Flood-related erosion" means the collapse or subsidence of land along the shore of 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 an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

(28) "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.

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

(30) "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 one foot.

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

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

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

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

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

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary 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 preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

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

(ii) Directly by the Secretary of the Interior in states without approved programs.

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

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

(38) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable 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 Subsection 60.3.

(39) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

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

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

(42) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with

National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

(44) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of this chapter. The term also includes any subsequent improvements to such structure.

(45) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter.

(46) "100-year flood" (see "base flood.")

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

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

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projections;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(49) "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.

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

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

(52) "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 180 days of the permit date. The actual start means either the first placement or 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; or the placement of a manufactured home on a foundation.

Permanent construction does not include 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.

(53) "State coordinating agency" (Tennessee Department of Economic and Community Development, Local Planning Assistance Office) means the agency of the state government, or other office designated by the Governor of the State or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program in that state.

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

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

(56) "Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. 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 identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

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

(57) "Variance" is a grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship. (1994 Code, § 14-302)

14-303. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the City of South Pittsburg, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the South Pittsburg, Tennessee, Federal Emergency Management Agency, Flood Insurance Rate Maps, Community-Panel Numbers 475447 0001 B-0002 B; Effective Date: October 16, 1992 and any subsequent amendments or revisions, are adopted by reference and declared to be a part of this chapter. These areas shall be incorporated into the City of South Pittsburg, Tennessee Zoning Map.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activity.

(4) Compliance. No structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this chapter conflicts or overlaps with another, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, 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 state statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of South Pittsburg, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of South Pittsburg, Tennessee from taking such other lawful actions to prevent or remedy any violation. (1994 Code, § 14-303)

14-304. Administration. (1) Designation of building official. The Building Inspector for the City of South Pittsburg is hereby appointed to administer and implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the building inspector on forms furnished by him prior to any development activity. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, 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. (see (b) below)

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed, where base flood elevation data is available. (see (b) below)

(iii) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in § 14-304(2)(b), where base flood elevation is available. (see (b) below)

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the building inspector shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building and the highest adjacent grade. USGS Quadrangle maps may be utilized when no more detailed reference exists to establish reference elevations.

With all flood zones where base flood elevation data are utilized, the building inspector shall require that upon placement of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building and the highest adjacent grade. USGS Quadrangle maps may be utilized when no more detailed reference exists to establish reference elevations.

With all flood zones where base flood elevation data are utilized, the building inspector shall require that upon placement of the lowest floor, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the building inspector a certification of the elevation of the lowest floor, or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by, or under the direct supervision of, a registered land surveyor, professional engineer, or architect and certified by same. When floodproofing is utilized for a

particular building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The building inspector shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey 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 building official. Duties of the building inspector shall include, but not be limited to:

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

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

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with § 14-304(2)(b).

(e) Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-304(2)(b).

(f) When flood-proofing is utilized, the building inspector shall obtain certification from a registered professional engineer or architect, in accordance with § 14-304(2)(b).

(g) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the building inspector shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 14-306.

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

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the building inspector shall require a minimum two (2) foot elevation or floodproofing, as set forth in § 14-304(2). The lowest floor (including basement) of the building is measured between the lowest floor of the building and the highest adjacent grade.

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

(j) Assure that the flood carrying capacity within an altered or relocated portion of any water course is maintained. (1994 Code, § 14-304)

14-305. Provisions for flood hazard reduction. (1) General standards. In all flood prone areas the following provisions are required:

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

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

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

(d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) 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 which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter; and

(j) Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provision of this chapter, shall meet the requirements of "new construction" as contained in this chapter and provided said non-conformity is not extended.

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

In all areas of special flood hazard where base flood elevation data have been provided, including A zones, A1-30 zones, AE zones, AO zones, AH zones and A99 zones, and has provided a regulatory floodway, as set forth in § 14-303(2) the following provisions are required.

(a) Residential construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of § 14-305(2)(c).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated no lower than one (1) foot above the level of the base flood elevation. Buildings located in all A zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the building inspector as set forth in § 14-304(2)(b).

(c) Elevated building. New construction or substantial improvements of elevated buildings that include fully enclosed areas

formed by foundation and other exterior walls below the base flood elevation, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria;

(A) Provide a minimum of two openings having a total net area of not less than one 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 above grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

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

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-305(2) of this chapter.

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions of existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

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

(A) The lowest floor of the manufactured home is elevated no lower than one (1) foot above the level of the base flood elevation on a permanent foundation;

(B) The manufactured home must be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; and

(C) In or outside of an existing or new manufactured home park or subdivision, or in an expansion of an existing manufactured home park or subdivision, on

which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of § 14-305(2)(d)(ii)(A) and (B) above.

(iii) All recreational vehicles placed on sites must either:
 (A) Be on the site for fewer than 180 consecutive days;

(B) Be fully licensed and ready for highway use; or

(C) The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of § 14-305(2)(d)(i) or (ii)(A) and (B) above.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached structures.

In all areas of special flood hazard where base flood elevation data or floodway data have not been provided, the provisions of § 14-304(2)(h) shall be utilized for all requirements relative to the base flood elevation or floodways.

(3) Standards for areas of special flood hazard zones A1-30 and AE with established base flood elevation but without floodways designated. Located within the areas of special flood hazard established in § 14-304(2), where streams exist with base flood data provided but where no floodways have been provided, (zones A1-30 and AE) the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-305(2).

(4) Standards for areas of shallow flooding (AO and AH zones). Located within the areas of special flood hazard established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' - 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement,

elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least two (2) feet above the highest adjacent grade.

(b) All new construction and substantial improvements of nonresidential buildings shall:

(i) Have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated at least two (2) feet above the highest adjacent grade; or

(ii) Together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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

(5) Standards for areas protected by flood protection system (A-99 zones). Located within the areas of special flood hazard established in § 14-303(2) are areas of the 100-year protected by a flood protection system which is under construction but where base flood elevations and flood hazard factors have not been determined. With these areas (A-99 zones) the following provisions apply:

(a) All provisions of § 14-304 and § 14-305(1) and (8) shall apply.

(6) Standards for areas of special flood hazard with established base flood elevation and with floodways designated.

(a) No encroachments, including fill material, new construction, substantial improvements or other developments shall be located within designated floodways, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipating development, will not increase the water surface elevation of the base flood during the occurrence of the base flood discharged at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) If § 14-305(6)(a) above is satisfied, new construction or substantial improvements of building shall be elevated or flood-proofed to elevations established in accordance with § 14-305(2).

(7) Standards for unmapped streams. Located within the City of South Pittsburg, Tennessee are unmapped streams where areas of special flood

hazard are neither indicated nor base flood data or floodways have been provided. Adjacent to such streams the following provisions shall apply:

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

(b) When flood elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-304 (2)(b).

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

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

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

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

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than fifty lots and/or five acres. (Ord. #520, Nov. 1992)

14-306. Variance procedures. The provisions of this section shall apply exclusively to areas of special flood hazard.

(1) Board of Zoning Appeals.

(a) The City of South Pittsburg Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(c) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

- (i) The danger that materials may be swept onto other property to the injury of others;
- (ii) The danger to life and property due to flooding or erosion;
- (iii) The susceptibility of the proposed facility and its contents to flood damage;
- (iv) The importance of the services provided by the proposed facility to the community;
- (v) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (vi) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (vii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (viii) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (ix) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (x) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(d) Upon consideration of the factors listed above, and the purposes of this chapter, the board of zoning appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this chapter.

(e) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extra ordinary public expense, create

nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The building inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (1994 Code, § 14-306)

14-307. Legal status provisions. This chapter shall become effective upon final reading and after its passage, in accordance with the Charter of the City of South Pittsburg, Tennessee, the public welfare demanding it. (1994 Code, § 14-307)

CHAPTER 4

SURVEYS OR RE-SURVEYS OF REAL PROPERTY

SECTION

- 14-401. Subdivision or re-subdivision of real property regulated.
- 14-402. Surveys or re-surveys conducted by registered surveyor.
- 14-403. Iron pipe or pin to be provided.
- 14-404. "Natural object" to be replaced.
- 14-405. Removal of permanent lot marker prohibited.
- 14-406. Violation and penalty.

14-401. Subdivision or re-subdivision of real property regulated.

The subdivision or re-subdivision of real property is currently regulated under the Subdivision Regulations of South Pittsburg, Tennessee and this chapter shall apply to the surveying of all real property in the City of South Pittsburg, Tennessee. (1994 Code, § 14-401)

14-402. Surveys or re-surveys conducted by registered surveyor.

Upon final adoption of this chapter, all surveys or re-surveys of real property shall be conducted by a registered surveyor, certified by the State of Tennessee and governed by the Tennessee Land Surveyors Laws and Regulations. (1994 Code, § 14-402)

14-403. Iron pipe or pin to be provided. In the conduct of surveying or re-surveying all real property in the City of South Pittsburg, Tennessee, all surveyors shall locate real property corners and shall provide, where otherwise not provided, an iron pipe or iron pin, subject to the specifications of Tennessee Land Surveyors Laws and Regulations; at all lot corners of the surveyed or resurveyed property. (1994 Code, § 14-403)

14-404. "Natural object" to be replaced. Where a "natural object", which has previously identified a corner, is used for the identification of a lot corner by the survey or re-survey of real property, it shall be replaced by or supplemented with an iron pipe or iron pin, subject to the specifications of Tennessee Land Surveyors Laws and Regulations. (1994 Code, § 14-404)

14-405. Removal of permanent lot marker prohibited. No person or persons shall remove a permanent lot marker that has been established or provided by a certified land surveyor who, in the performance of their duties and in compliance with this chapter has identified, located, and recorded as an official lot marker in the survey or re-survey of any real property in South Pittsburg, Tennessee. (1994 Code, § 14-405)

14-406. Violation and penalty. Upon final adoption of this chapter, violation of any provision of this chapter is a misdemeanor and subject to a fifty (\$50.00) dollar fine for each violation of this chapter. (1994 Code, § 14-406)

CHAPTER 5

BOARD OF ZONING APPEALS

SECTION

- 14-501. Creation and membership.
- 14-502. Jurisdiction and rules of procedure.
- 14-503. Powers.
- 14-504. Training.

14-501. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-7-205 there is hereby created a board of zoning appeals. The board of zoning appeals shall consist of three (3) members selected by the board of mayor and commissioners. Except for the initial appointments, the terms of the members shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. Any vacancy in shall be filled for the unexpired term by the board of mayor and commissioners, who shall also have the authority to remove any appointive member at its will and pleasure.

14-502. Jurisdiction and rules of procedure. The procedure and jurisdiction of the board of zoning appeals shall be governed by such rules as provided by ordinance, in accordance with all applicable provisions of Tennessee Code Annotated, title 13. In addition, the board of zoning appeals may adopt supplemental rules of procedure, not inconsistent with the charter and ordinances of the City of South Pittsburg or Tennessee Code Annotated, title 13.

14-503. Powers. The board of zoning appeals has the power to:

- (1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by any administrative official in the carrying out or enforcement of any provision of the zoning ordinance;
- (2) Hear and decide, in accordance with the provisions of the zoning ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special exceptions or for interpretation of the map or for decisions upon other special questions upon which the board is authorized by the zoning ordinance to pass;
- (3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any provision of the zoning ordinance would result in peculiar and exceptional practical difficulties to or exception or undue hardship

upon the owner of such property, authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

14-504. Training. The board of mayor and commissioners elects to opt out of the training and continuing education requirements of Tennessee Code Annotated § 13-7-205(c).

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING¹****CHAPTER**

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. STREET ADOPTION POLICY.

CHAPTER 1**MISCELLANEOUS²****SECTION**

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic control signs, etc.
- 15-108. General requirements for traffic control signs, etc.
- 15-109. Unauthorized traffic control signs, etc.
- 15-110. Presumption with respect to traffic control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State 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.

- 15-113. Damaging pavements.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Bicycle riders, etc.
- 15-122. Speed humps or breakers.
- 15-123. Weight limits on city streets.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1994 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1994 Code, § 15-102)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1994 Code, § 15-103)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1994 Code, § 15-104)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle

within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) 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. (1994 Code, § 15-105)

15-106. 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. (1994 Code, § 15-106)

15-107. Miscellaneous traffic control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking or device placed or erected by the state or the city. (1994 Code, § 15-107)

15-108. General requirements for traffic control signs, etc. Pursuant to Tennessee Code Annotated, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways,² and shall be uniform as to type and location throughout the city. (1994 Code, § 15-108, modified)

15-109. Unauthorized traffic control signs, etc. No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking or device or any railroad sign or signal. (1994 Code, § 15-109)

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

²For the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, et seq.

15-110. Presumption with respect to traffic control signs, etc.

When a traffic-control sign, signal, marking or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper city authority.

All presently installed traffic-control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (1994 Code, § 15-110)

15-111. School safety patrols.

All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1994 Code, § 15-111)

15-112. Driving through funerals or other processions.

Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1994 Code, § 15-112)

15-113. Damaging pavements.

No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1994 Code, § 15-113)

15-114. Clinging to vehicles in motion.

It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley or other public way or place. (1994 Code, § 15-114)

15-115. Riding on outside of vehicles.

It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1994 Code, § 15-115)

15-116. Backing vehicles.

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1994 Code, § 15-116)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1994 Code, § 15-117)

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. (1994 Code, § 15-118)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1994 Code, § 15-119)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1994 Code, § 15-120)

15-121. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian to knowingly permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1994 Code, § 15-121)

15-122. Speed humps or breakers. The construction of speed humps or breakers on the public streets and alleys of the city is hereby authorized. It shall be unlawful for any person to do damage to, remove any portion of, or do any act which injures or reduces the effectiveness of any such device. (1994 Code, § 15-122)

15-123. Weight limits on city streets. (1) It shall be unlawful for any vehicle of a weight exceeding 10,000 pounds to travel on any city streets except

to make deliveries to merchants or residents on such streets except for the following streets:

- (a) Nineteenth (19th) Street,
- (b) Third (3rd) Street from the railroad crossing to the Highway 72 bypass,
- (c) Railroad Avenue from Third (3rd) Street to Eighth (8th) Street,
- (d) Cedar Avenue from the Alabama state line to twelfth (12th) street,
- (e) Ash Avenue, and
- (f) The portion of Twelfth (12th) Street from Cedar Avenue to the Highway 72 bypass.

(2) Any owner of a vehicle wishing to exceed the above weight limit must post a bond in the amount set by the Board of Mayor and Commissioners for the City of South Pittsburg before traveling on South Pittsburg city streets. Violators will be liable to compensate the city for damages to city streets plus be subject to a fine of fifty dollars (\$50.00) for each citation under this section. (Ord. #630, Aug. 2001, modified)

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. (1994 Code, § 15-201)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (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. (1994 Code, § 15-202)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1994 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1994 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1994 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1994 Code, § 15-302)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle at a speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (1994 Code, § 15-303)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1994 Code, § 15-304)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1994 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1994 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1994 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1994 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (1994 Code, § 15-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian-control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1994 Code, § 15-501)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1994 Code, § 15-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1994 Code, § 15-503)

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1994 Code, § 15-504)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection and shall remain standing until he can proceed through the intersection in safety. (1994 Code, § 15-505)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1994 Code, § 15-506)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1994 Code, § 15-507)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1994 Code, § 15-508)

15-509. At pedestrian-control signals. Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the 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. (1994 Code, § 15-509)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1994 Code, § 15-510)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.
- 15-607. Parking on city-owned and city-managed property regulated.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street, at all places where angular parking is provided for.

Except as hereinabove hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen (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.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1994 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1994 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the

street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1994 Code, § 15-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within fifty (50) feet of a railroad crossing.
- (7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of such entrance.
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (10) Upon any bridge.
- (11) Alongside any curb painted yellow. (1994 Code, § 15-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1994 Code, § 15-605)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1994 Code, § 15-606)

15-607. Parking on city-owned and city-managed property regulated. (1) City-owned or city-managed parking lots now or hereafter acquired by the city shall be under the supervision of the chief of police.

(2) It shall be unlawful to park any vehicle on any city-owned or city-managed parking lot in violation of any ordinance. No commercial or freight-carrying vehicle or trailer shall be parked on any city-owned or city-managed parking lot.

(3) No vehicle shall stand, be stored or parked for a period exceeding twenty-four (24) hours continuously, on any public property.

(4) Vehicles illegally parked will be towed away at owner's expense. (1994 Code, § 15-607)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Impoundment of vehicles.
- 15-702. Issuance of traffic citations.
- 15-703. Failure to obey citation.
- 15-704. Parking spaces reserved for the physically handicapped.
- 15-705. Disposal of "abandoned motor vehicles."
- 15-706. Deposit of chauffeur's or operator's license in lieu of bail.
- 15-707. Receipt to be issued.
- 15-708. Failure to appear-disposition of license.
- 15-709. Violation and penalty.

15-701. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any vehicle which is illegally parked, abandoned, or otherwise parked 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 five dollars (\$5.00) and a storage cost of one dollar (\$1.00) per day shall also be charged. (1994 Code, § 15-701)

15-702. Issuance of traffic 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 city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1994 Code, § 15-702)

15-703. 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 charges for which the citation was originally issued. (1994 Code, § 15-703)

15-704. Parking spaces reserved for the physically handicapped.

No person shall park a vehicle in a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (1) physically handicapped, or (2) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21. (1994 Code, § 15-704)

15-705. Disposal of "abandoned motor vehicles." "Abandoned motor vehicles" as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1994 Code, § 15-705)

15-706. Deposit of chauffeur's or operator's license in lieu of bail.

Whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is arrested and charged with the violation of any municipal ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of an operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court. (1994 Code, § 15-706)

15-707. Receipt to be issued. The officer, or the court demanding bail, who receives any persons chauffeur's or operator's license as herein provided, shall issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety. (1994 Code, § 15-707)

15-708. Failure to appear-disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charge filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety where disposition by said department in accordance with provisions of Tennessee Code Annotated, § 55-50-803. (1994 Code, § 15-708)

15-709. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall

be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant for his arrest is issued, his fine shall be ten dollars (\$10.00).

(b) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of ten dollars (\$10.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant is issued for his arrest, his civil penalty shall be twenty-five dollars (\$25.00).

(c) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of one hundred dollars (\$100.00). (1994 Code, § 15-709)

CHAPTER 8

STREET ADOPTION POLICY

SECTION

- 15-801. Street adoption policy adopted.
- 15-802. Designation of official city streets.
- 15-803. Public funds for maintenance of official city streets.
- 15-804. Standards for acceptance of official city streets.
- 15-805. Adoption procedure for official city streets.
- 15-806. Building inspector maintains records.

15-801. Street adoption policy adopted. From and after passage of this official street adoption policy, no public funds shall be expended for the construction or maintenance of any street, road, easements, drives or other means of ingress or egress for vehicular traffic in the City of South Pittsburg, Tennessee, except in compliance with this chapter. (Ord. #585, June 1997)

15-802. Designation of official city streets. All streets, roads, easements, drives or other means of ingress or egress for vehicular traffic in the City of South Pittsburg, Tennessee, that are not listed in this chapter¹ or have not subsequently been accepted as official city streets, in accordance with this chapter are not designated as official city streets. No public funds shall be expended to maintain, modify or upgrade any means of vehicular ingress or egress that has not obtained the designation of an official city street, until such time that the means of vehicular ingress and egress has been accepted or adopted as an official city street, in accordance with this chapter. (Ord. #585, June 1997)

15-803. Public funds for maintenance of official city streets. The streets which are designated as official city streets¹ upon adoption of this chapter and no other streets shall receive public funds for maintenance until such time that they become official city streets, in accordance with this chapter. (Ord. #585, June 1997)

15-804. Standards for acceptance of official city streets. No street, road, easement, drive or other means of ingress or egress for vehicular traffic shall be accepted or adopted as an official city street, nor shall any public funds be expended for the construction or maintenance of such street, road, easement, drive or other means of ingress or egress for vehicular traffic until such time

¹The official city street list is of record in the office of the South Pittsburg Building Inspector.

that the street, road, easement, drive or other means of ingress or egress for vehicular traffic has been built according to the Subdivision Regulation Standards for the City of South Pittsburg, Tennessee and such street, road or other way shall have been reviewed, approved and recommended for adoption as an official city street by the South Pittsburg Municipal Planning Commission. (Ord. #585, June 1997)

15-805. Adoption procedure for official city streets. The procedure for officially accepting or adopting an official city street shall require the board of mayor and commissioners to adopt a street by a formal motion and a majority of affirming votes cast for acceptance of such street in a regular session of the board of mayor and commissioners or at a special called meeting which has been advertised in accordance with open meeting laws. No street shall be accepted by the board of mayor and commissioners until such time that the South Pittsburg Municipal Planning Commission shall have first reviewed, approved, and recommended such street, through its subdivision review authority. (Ord. #585, June 1997)

15-806. Building inspector maintains records. The South Pittsburg Building Inspector shall keep and maintain records of the existing official city streets that are eligible for maintenance with public funds. The building inspector shall also keep and maintain records of all streets that are officially accepted or adopted by the board of mayor and commissioners, in accordance with this chapter. (Ord. #585, June 1997)

TITLE 16**STREETS AND SIDEWALKS, ETC¹****CHAPTER**

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 16-101. Obstructing streets, alleys or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. All terrain vehicles on sidewalks, alleys and parks prohibited.

16-101. Obstructing streets, alleys or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk (except that not more than 36 inches from the front of the building may be used) or right of way for the purpose of storing, selling or exhibiting any goods, wares, merchandise or materials. (1994 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen (14) feet or out over any sidewalk at a height of less than eight (8) feet. (1994 Code, § 16-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited.

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1994 Code, § 16-103)

16-104. Projecting signs and awnings, etc., restricted.

Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1994 Code, § 16-104)

16-105. Banners and signs across streets and alleys restricted.

It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and commissioners after a finding that no hazard will be created by such banner or sign. (1994 Code, § 16-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.

It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1994 Code, § 16-106)

16-107. Littering streets, alleys, or sidewalks prohibited.

It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley or sidewalk any refuse, glass, tacks, mud or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1994 Code, § 16-107)

16-108. Obstruction of drainage ditches.

It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1994 Code, § 16-108)

16-109. Abutting occupants to keep sidewalks clean, etc.

The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1994 Code, § 16-109)

¹Municipal code reference

Building code: title 12, chapter 1.

16-110. Parades, etc., regulated. It shall be unlawful for any club, organization or similar group to hold any meeting, parade, demonstration or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1994 Code, § 16-110)

16-111. 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 to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1994 Code, § 16-112)

16-112. 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. (1994 Code, § 16-113)

16-113. All terrain vehicles on sidewalks, alleys and parks prohibited. It shall be unlawful and a violation of the ordinances of this city for any person or persons to operate on the streets, sidewalks, alleys, or city parks of this city, any off-highway vehicle as defined in Tennessee Code Annotated, § 55-3-101 (c)(2)(d). (1994 Code, § 16-114)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Annual deposits.
- 16-206. Purpose.
- 16-207. Refund of special deposits.
- 16-208. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-209. Restoration of streets, etc.
- 16-210. Unacceptable fill material.
- 16-211. Breaking through pavement.
- 16-212. Driveway curb cuts.
- 16-213. Clean up.
- 16-214. Insurance.
- 16-215. Time limits.
- 16-216. Supervision.

16-201. Permit required. It shall be unlawful to make any excavation 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 commissioner of public works (CPW)(at city hall) is open for business and said permit shall be retroactive to the date when the work was begun. The public works foreman is hereby given full authority to act in behalf of the commissioner of public works in his absence from city hall. (1994 Code, § 16-201)

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

16-202. Applications. Applications for such permits shall be made to the commissioner of public works or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done and that the applicant will perform all work in full compliance with the attached specifications. Such application shall be rejected or approved by the commissioner of public works within twenty-four (24) hours of its filing. (1994 Code, § 16-202)

16-203. Fee. The fee for such permits shall be five dollars (\$5.00) for excavations which do not exceed twenty-five (25) square feet or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit, however, Marion Natural Gas Systems and the South Pittsburg Board of Water Works and Sewers are expressly excused from paying any fees for permits. (1994 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the commissioner of public works a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or one hundred dollars (\$100.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the commissioner of public works may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of the restoration work if this is done by the city or at its expense. The balance shall be returned to the permittee without interest as provided herein after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the commissioner of public works a surety bond in such form and amount as the commissioner of public works shall deem adequate to cover the costs to the city if the permittee fails to make proper restoration. (1994 Code, § 16-204)

16-205. Annual deposits. In lieu of deposit or bond as set out in the two proceeding paragraphs, Marion Natural Gas System and the South Pittsburg Board of Water Works and Sewers shall be required to make and maintain with the city an annual deposit in the sum of \$10,000.00 each, beginning January 15, 1990; and the interest accrued on each deposit shall be added to each deposit. The amount of each fund shall be adjusted annually by the city. (1994 Code, § 16-205)

16-206. Purpose. Any special or annual deposit made hereunder shall serve as security for the repair and performance of work necessary to put the public place in as good a condition as it was prior to the excavation if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. (1994 Code, § 16-206)

16-207. Refund of special deposits. Upon the permittee's completion of the work covered by such permit in conformity with this chapter as determined by the commissioner of public works, two-thirds of such special deposit, shall be promptly refunded by the city to the permittee and the balance shall be refunded by the city to the permittee upon the expiration of a 24 months period. (1994 Code, § 16-207)

16-208. Manner of excavating--barricades and lights--temporary sidewalks. Any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users.

The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

When traffic conditions permit the commissioner of public works may by written approval permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if in his opinion it is necessary. The written approval may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. (1994 Code, § 16-208)

16-209. Restoration of streets, etc. The permittee shall restore the excavation or tunnel in accordance with the specifications. In case of unreasonable delay in restoring the excavation or tunnel, the commissioner of public works shall give notice to the permittee 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 the permittee. 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 permittee who made the excavation or tunnel. (1994 Code, § 16-209)

16-210. Unacceptable fill material. If for any reason the excavated material cannot be compacted to its original density the material shall be removed and material acceptable to the commissioner of public works shall be used to complete the work. (1994 Code, § 16-210)

16-211. Breaking through pavement. Heavy duty pavement breakers may be prohibited by the administrative authority when the use endangers existing substructures or other property.

Saw cutting of Portland cement concrete may be required by the commissioner of public works when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall be not less than one inch in depth; however, depths greater than one inch may be required when circumstances warrant. Saw cutting may be required outside of the limits of the excavation over cave-outs, overbreaks and small floating sections.

Approved cutting of bituminous pavement surface ahead of excavations may be required to confine pavement damage to the limits of the trench.

Sections of sidewalks shall be removed to the nearest score line or joint.

Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

Cutouts outside of the trench lines must be normal or parallel to the trench line.

Boring or other method to prevent cutting of new pavement may be required by the commissioner of public works.

Permittee shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case permittee shall remove and pave the area.

In case of any conflict between the provisions of this section ("Breaking Through Pavement") with the specifications the conflict shall be resolved by the commissioner of public works and written decision shall be given to the permittee. (1994 Code, § 16-211)

16-212. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the commissioner of public works. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. All new constructions or replacement of driveway drainage culverts shall have minimum dimensions of 15 inches in diameter for metal corrugated pipe or 12 inches in

diameter for concrete pipe, and twenty (20) feet in length, and shall be constructed in a manner not to impede adequate drainage along the road right-of-way. All installations shall be inspected by the city during installation. (1994 Code, § 16-212)

16-213. Clean up. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the commissioner of public works. From time to time, as may be ordered by the commissioner of public works and in any event immediately after completion of said work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within 24 hours after having been notified to do so by the commissioner of public works. Said work may be done by the city and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder. (1994 Code, § 16-213)

16-214. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure the proper restoration is made, each applicant 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 commissioner of public works in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1994 Code, § 16-214)

16-215. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the municipality if the municipality restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the commissioner of public works. (1994 Code, § 16-215)

16-216. Supervision. The public works foreman shall from time to time inspect all excavations and tunnels being made in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1994 Code, § 16-216)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE STORAGE AND COLLECTION.
2. PICKUP OF BRUSH, FURNITURE AND APPLIANCES.

CHAPTER 1

REFUSE STORAGE AND COLLECTION

SECTION

- 17-101. Refuse containers required.
- 17-102. Receptacles to have lids and be latched at all times; area to be clean around receptacles.
- 17-103. Fine for illegal dumping in city.
- 17-104. Dumpsters.
- 17-105. Burning; unlawful.
- 17-106. Receptacle required for businesses generating cardboard waste and refuse.
- 17-107. Storage.
- 17-108. Location of residential containers.
- 17-109. Disturbing containers.
- 17-110. Collection.
- 17-111. Violations and penalty.

17-101. Refuse containers required. All commercial customers will be required to obtain refuse containers large enough to hold the waste generated by the normal daily operation of the business. Only refuse generated by the business will be allowed to be deposited in the containers. No refuse generated outside the business will be allowed to be deposited in the containers. If refuse generated outside the business (including residue materials from job sites) is deposited into the container, there will be a pickup charge billed to the customer based upon the size of the container. (1994 Code, § 17-101)

17-102. Receptacles to have lids and be latched at all times; area to be clean around receptacles. All commercial refuse receptacles will be required to have lids, which will be closed at all times. Businesses with dumpsters will be required to place them on cement slabs. A lid with secure

¹Municipal code reference

Property maintenance regulations: title 13.

latch will also be required. It will be the responsibility of the customer to keep the area around the receptacles clean. A fine of twenty five dollars (\$25.00) will be assessed per day if this is not done. If a commercial business generates more than six (6) thirty-two (32) gallon containers of refuse, it will be required to obtain a dumpster. (1994 Code, § 17-102)

17-103. Fine for illegal dumping in city. Any person not a resident of the City of South Pittsburg or not licensed as a business in the City of South Pittsburg caught dumping refuse in the City of South Pittsburg will be fined fifty dollars (\$50.00) per occurrence. (1994 Code, § 17-103)

17-104. Dumpsters. Residential customers will not be allowed to have dumpsters. Apartment buildings that generate more than six (6) thirty-two (32) gallon containers will be required to obtain dumpsters. Any remodeling materials will have to be hauled away by the contractor. (1994 Code, § 17-104)

17-105. Burning; unlawful. No burning of garbage will be allowed in the City of South Pittsburg. The fine for burning garbage will be fifty dollars (\$50.00) per occurrence. No oil or grease products will be allowed to be dumped into residential or commercial refuse containers. Anyone caught depositing these products in their refuse containers will be fined fifty dollars (\$50.00) per violation. (1994 Code, § 17-105)

17-106. Receptacle required for businesses generating cardboard waste and refuse. Businesses located in the city which generate cardboard waste and refuse will be required to maintain a receptacle wherein such refuse and waste can be placed for pickup. (1994 Code, § 17-106)

17-107. Storage. Each owner, occupant or other responsible person using or occupying any residential building within the city where refuse accumulates, or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) no more than thirty-two (32) gallons. Furthermore, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. (Ord. #596, Oct. 1997)

17-108. Location of residential containers. Where alleys are used by the city refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude on the travel portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the city for

the collection of refuse therefrom. As soon as practical after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (Ord. #596, Oct. 1997)

17-109. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (Ord. #596, Oct. 1997)

17-110. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed and disposed of under the supervision of such officer as the board of mayor and commissioners shall designate. Collection shall be made regularly in accordance with an announced schedule. (Ord. #596, Oct. 1997)

17-111. Violations and penalty. Upon final adoption of this section, violation of any provision of this chapter is a misdemeanor subject to a fifty dollar (\$50.00) fine for each violation of this chapter. (Ord. #596, Oct. 1997)

CHAPTER 2

PICKUP OF BRUSH, FURNITURE AND APPLIANCES

SECTION

- 17-201. Brush pickup.
- 17-202. Early placement along streets prohibited.
- 17-203. Old furniture and small appliance pickup.
- 17-204. Items prohibited; early placement along streets prohibited.
- 17-205. Violations and penalty.

17-201. Brush pickup. The City of South Pittsburg will pickup brush along city streets on the first and third Wednesday of each month in the following areas: from State Line to Eighth Street including Hemlock and Hamburg Roads. The City of South Pittsburg will pickup brush along city streets on the second and fourth Wednesday of each month in the following areas: from Eighth Street to City limits on Swedens Cove Road. However, the city administration may change the schedule for pickup of brush upon approval in writing by the board of mayor and commissioners and reasonable advance notice to the public. (1994 Code, § 17-201)

17-202. Early placement along streets prohibited. It shall be unlawful for anyone to place brush along city streets for pickup earlier than the Monday preceding the scheduled pickup date. (1994 Code, § 17-202)

17-203. Old furniture and small appliance pickup. The city will also provide for the pickup of old furniture and small appliances on the first and third Thursday of each month in the following areas: from State Line to Eighth Street, including Hemlock and Hamburg Roads. The City of South Pittsburg will provide for the pickup of old furniture and small appliances on the second and fourth Thursday of each month in the following areas: from Eighth Street to city limits on Swedens Cove Road. (1994 Code, § 17-203)

17-204. Items prohibited; early placement along streets prohibited. The city will not pickup old tires and large appliances, and it shall be unlawful for residents to place tires or large appliances near the street for pickup. It shall also be unlawful for anyone to place trash and small appliances along city streets for pickup earlier than the Tuesday preceding the scheduled pickup date. (1994 Code, § 17-204)

17-205. Violations and penalty. Upon final adoption of this ordinance, violations of any provision of the chapter is a misdemeanor and subject to a fifty dollar (\$50.00) fine for each violation of this chapter. (1994 Code, § 17-205)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWERS.
2. WASTEWATER REGULATIONS.
3. SUPPLEMENTARY SEWER REGULATIONS.
4. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
5. MISCELLANEOUS.

CHAPTER 1

WATER AND SEWERS

SECTION

- 18-101. Board of waterworks and sewerage commissioners.
 18-102. Fluoridation of water.
 18-103. Water and sewer rates and charges.

18-101. Board of waterworks and sewerage commissioners. The custody, administration, operation, maintenance and control of the waterworks and sewerage systems of the City of South Pittsburg are hereby placed in a board of waterworks and sewerage commissioners appointed by the board of mayor and commissioners.²

The first board shall be appointed so that the term of one member shall expire on June 30th in each odd numbered year thereafter. (1994 Code, § 18-101)

18-102. Fluoridation of water. The board of waterworks and sewerage commissioners is authorized and instructed to make plans for the fluoridation

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

²Provisions relating to qualifications, terms, oaths, removal, etc., of members of the board of waterworks and sewerage commissioners and a description of the board's powers and duties are presently codified in Tennessee Code Annotated, §§ 7-35-401 through 7-35-432.

The board originally consisted of three members. The three original members of the board, R. T. Phillips, Scott Patton, and J. T. Ferguson, were appointed to serve until July 1, 1943; July 1, 1945; and July 1, 1947, respectively.

of the water supply of the city; to submit such plans to the state health department for approval; and, upon approval, to add such chemicals as fluoride to the water supply in accordance with such approval as will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be borne by the revenues of the water system. (1994 Code, § 18-102)

18-103. Water and sewer rates and charges. All water and sewer services furnished by the city shall be furnished under such rate schedules and shall be subject to such charges as the board of mayor and commissioners may from time to time prescribe. (1994 Code, § 18-103)

CHAPTER 2

WASTEWATER REGULATIONS

SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Connection to public sewers.
- 18-204. Private domestic wastewater disposal.
- 18-205. Regulation of holding tank waste disposal.
- 18-206. Application for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-207. Discharge regulations.
- 18-208. Industrial user monitoring, inspection reports, records access, and safety.
- 18-209. Enforcement and abatement.
- 18-210. Penalties; costs.
- 18-211. Fees and billing.
- 18-212. Validity.
- 18-213. Water distribution--system design.
- 18-214. Water distribution--details of design and construction of distributor mains.
- 18-215. Water distribution--products.
- 18-216. Water distribution--execution.
- 18-217. Water distribution--standards flexibility.
- 18-218. Grease trap required.
- 18-219. Compliance.
- 18-220. Inspections.
- 18-221. Maintenance of device.
- 18-222. Violation and penalty.

18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of South Pittsburg, Tennessee, wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) 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 will cause physical damage to the wastewater treatment system facilities;

(4) To provide for full and equitable distribution of the cost of the wastewater treatment system;

(5) To enable the City of South Pittsburg to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal and state laws and regulations;

(6) 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 South Pittsburg 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 South Pittsburg, 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 Water and Sewer Superintendent of the City of South Pittsburg shall administer, implement, and enforce the provisions of this chapter. (1994 Code, § 18-201)

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

(2) "Approval authority." The director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) a principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards." The National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "City." The City of South Pittsburg or the Board of Mayor and Commissioners, City of South Pittsburg, Tennessee.

(8) "Compatible pollutant." BOD, suspended solids, Ph, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(9) "Cooling water." The water discharge from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(10) "Control authority." The term "control authority" shall refer to the "approval authority," defined hereinabove; or the superintendent if the city has an approved pretreatment program under the provisions of 40 CFR, 403.11.

(11) "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.

(12) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(13) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(14) "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.

(15) "Garbage." Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(16) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(17) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(18) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(19) "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).

(20) "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).

(21) "Interference." The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(22) "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.

(23) "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.

(24) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the federal register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(25) "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, the singular shall include the plural where indicated by the context.

(26) "Ph." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(27) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(28) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical substances, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

(29) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except as prohibited by 40 CFR Section 40.36(d).

(30) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(31) "Publicly owned treatment works (POTW)." A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

(32) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(33) "Shall" is mandatory; "May" is permissive.

(34) "Slug." Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(35) "State." The State of Tennessee.

(36) "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.

(37) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(38) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(39) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(40) "Superintendent." 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 chapter, or his duly authorized representative.

(41) "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.

(42) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(43) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(44) "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.

(45) "Wastewater treatment systems." Defined the same as POTW.

(46) "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. (1994 Code, § 18-202)

18-203. Connection to public sewers. (1) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of South Pittsburg, 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 South Pittsburg any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-203(1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, or right-of-way in which there is now

located or may in the future be located a public sanitary sewer in the service area, 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 (500) feet of the building drain as defined herein.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(f) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-204 of this chapter.

(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 superintendent as required by § 18-206 of this chapter.

(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, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be four (4) inches.

(ii) The minimum depth of a building sewer shall be eighteen (18) inches.

(iii) Four (4) inch building sewers shall be laid on a grade greater than 1/8-inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of:

(A) concrete or clay sewer pipe using rubber or neoprene compression joints of approved type;

(B) cast iron soil pipe with leaded or compression joints;

(C) polyvinyl chloride pipe with solvent welded or with 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 superintendent. Under no circumstances will cement mortar joints be acceptable.

(vi) A cleanout shall be located five (5) feet outside of the building, one as it taps on to the utility lateral and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of four (4) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches on a four (4) inch pipe.

(vii) Connections of building sewers to the public sewer system shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the superintendent. 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 1/8-inch 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 an approved means 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 and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(b) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner 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 superintendent to meet specifications of the city. (1994 Code, § 18-203)

18-204. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), 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 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-203(2)(e)(8).

(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 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 superintendent 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 city and Marion County Health Department.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the city and Marion County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the city and Marion County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the city and Marion County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the city and Marion 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 city and Marion County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health and Environment of the State of Tennessee and the city and Marion County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(f) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the city and Marion County Health Department. (1994 Code, § 18-204)

18-205. 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 superintendent to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter, an annual service charge therefore shall be paid to the city to be set as specified in § 18-211. Any such permit granted shall be for one full 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 superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated.

(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 superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of South Pittsburg. (1994 Code, § 18-205)

18-206. Application 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 superintendent 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 municipal sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-201 of this chapter and an inspection has been performed by the superintendent or his 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 superintendent 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 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 superintendent, an application on a form prescribed by the superintendent, and accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 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 characteristics; discharge variations -- daily, monthly, seasonal and 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 superintendent.

(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 superintendent for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user

from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by § 18-207 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 superintendent will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the superintendent 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 superintendent, the superintendent shall submit the application to the mayor with a recommendation that it be denied 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. Permits may contain the following:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(ii) Limits on the average and maximum rate and time of discharge or requirements and equalization;

(iii) Requirements for installation and maintenance of inspections and sampling facilities;

(iv) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(v) Compliance schedules;

(vi) Requirements for submission of technical reports or discharge reports;

(vii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(viii) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

(ix) Requirements for notification of slug discharged;

(x) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modifications. Within nine 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 superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-206(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the superintendent 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 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 180 days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked

in whole or in part during its term for cause including, but not limited to, the following:

- (i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.
- (ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.
- (iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (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 superintendent 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 superintendent as confidential shall not be transmitted to any governmental agency or to the general public by the superintendent until and unless prior and adequate notification is given to the user. (1994 Code, § 18-206)

18-207. 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. 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 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 materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) 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 such as, 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, 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 or hazard to life or 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 sludge use 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 at the introduction into the POTW which exceeds 40°C (104° F).

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(l) Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(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 or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty (150) degrees F (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 superintendent and the Tennessee Department of Health and Environment. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Health and Environment, to a storm sewer or natural outlet.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the following set of standards (Table A - User Discharge Restrictions) 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.

Table A - User Discharge Restrictions

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5
Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides & Herbicides	0.5	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants, as MBAS	25.0	50.0
Zinc	.6	5.0

*Based on 24-hour flow proportional composite samples.

(3) Protection of treatment plant influent. The superintendent shall monitor the treatment works influent for each parameter in the following table. (Table B - Plant Protection Criteria). Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the superintendent 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 superintendent 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 B-Plant Protection Criteria

Parameter	Suspended Solids Maximum Concentration (mg/l) (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/l) Grab Sample
Aluminum dissolved (AL)		6.0
Antimony (Sb)	3.00	1.0
Arsenic (As)	0.50	0.12
Barium (Ba)	0.06	5.0
Boron (B)	2.50	0.8
Cadmium (Cd)	0.4	0.008
Chromium Hex	0.004	0.12
Cobalt (Co)	0.06	0.06
Copper (Cu)	0.03	0.32
Cyanide (CN)	0.16	0.06
Fluoride (F)	0.03	1.2
Iron (Fe)	0.6	6.0
Lead (Pb)	3.0	0.2
Manganese (Mn)	0.10	0.2
Mercury (Hg)	0.1	0.05
Nickel (Ni)	0.025	0.30
Pesticides & Herbicides	0.15	.002
Phenols	.001	2.0
Selenium (Se)	1.00	0.02
Silver (Ag)	0.01	0.1
Sulfide	0.05	40.0
Zinc (Zn)	25.0	0.6
Total Kjeldahl Nitrogen (TKN)	0.3	90.00
Oil & Grease	45.00	100.00
MBAS	50.00	10.0
BOD	5.00	
COD	*	
	*	
	*	

*Not to exceed the design capacity of treatment works.
BDL= Below Detectable Limits

(4) 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 superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(5) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the superintendent 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 Health and Environment and/or the United States Environmental Protection Agency.

(6) 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.

(7) 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 § 18-207(1) and (2) of this chapter. Exceptions can be granted according to the following guidelines.

The superintendent shall allow applications for temporary exceptions at any time. However, the superintendent 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.

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 section shall be temporary and subject to revocation at any time by the superintendent upon reasonable notice.

The user requesting the exception must demonstrate to the superintendent 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 or economically 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.
- (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 inforce federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

(c) Review of application by the superintendent. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent 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 superintendent 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 for exceptions 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 § 18-207 and grant an exception only if

such exception may be granted within limitations of applicable federal regulations;

(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 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;

(8) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. 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 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 superintendent before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the superintendent (or his designated official) by telephone to enable countermeasures to be taken by the superintendent to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (1994 Code, § 18-207)

18-208. 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 thereby subject to a surcharge. Monitoring facility shall be a manhole or other suitable facility approved by the superintendent.

When, in the judgement of the superintendent there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the superintendent 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 superintendent, 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 superintendent 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 superintendent's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the superintendent, an existing notified in writing. Construction must be completed within 180 days following written notification unless an extension is granted by the superintendent.

(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. 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. The superintendent or his representatives shall have no authority to inquire into any manufacturing process beyond that point having a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment.

(3) Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(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 superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards.

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 superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

(b) The superintendent 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 standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the superintendent 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, Part 136 and amendments thereto or with any other test procedures approved by the superintendent. Sampling shall be performed in accordance with techniques approved by the superintendent.

(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 superintendent, Director of the Division of Water Quality Control, Tennessee Department of Health and Environment or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the superintendent, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the superintendent 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. (1994 Code, § 18-208)

18-209. Enforcement and abatement. (1) Issuance of cease and desist orders. When the superintendent finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the superintendent shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

- (a) Comply forthwith;
- (b) Comply in accordance with a time schedule set forth by the superintendent;
- (c) Take appropriate remedial or preventive action in the event of a threatened violation; or
- (d) Surrender the applicable user's permit if ordered to do so after a show cause hearing.

Failure of the superintendent to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(2) Submission of time. When the superintendent finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a wastewater discharge permit, the superintendent shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the superintendent within 30 days of the issuance of the cease and desist order.

- (3) Show cause hearing. (a) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause

before the board of mayor and commissioners why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the board of mayor and commissioners regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board of mayor and commissioners why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(b) The board of mayor and commissioners may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the water sewer department to:

(i) Issue in the name of the board of mayor and commissioners notice of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(d) After the board of mayor and commissioners has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal and/or equitable relief in the chancery court of this county.

(5) Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the superintendent presents or may present an imminent and substantial endangerment to the health or welfare of persons, or cause interference with POTW, the superintendent or in his absence the person then in charge of the treatment works shall immediately notify the mayor of the nature of the emergency. The superintendent shall also attempt to notify the industrial user

or other person causing the emergency and request their assistance in abating same. Following consultation with the aforementioned officials of the city or in their absence such elected officials of the city as may be available, the superintendent shall temporarily terminate the service of such user or users as are necessary to abate the condition when such action appears reasonably necessary. Such service shall be restored by the superintendent as soon as the emergency situation has been abated or corrected.

(6) Public nuisance. Discharges or wastewater in any manner in violation of this chapter or of any order issued by the superintendent as authorized by this chapter is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent. Any person creating a public nuisance shall be subject to the provisions of the city codes or ordinances governing such nuisance.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the superintendent shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating this chapter or the owner or tenant of the property upon which the violation occurs, and the city shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the superintendent shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The City of South Pittsburg shall sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the correcting action, if any. (1994 Code, § 18-209)

18-210. Penalties; costs. (1) Civil penalties. Any user who is found to have violated an order of the board of mayor and commissioners, or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined not less than fifty dollars (\$50.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the

penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.

(2) Falsifying information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater discharge 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) or by imprisonment for not more than six (6) months, or by both. (1994 Code, § 18-210)

18-211. Fees and billing. (1) Actual use. The USC shall be based on actual use, or estimated use, of wastewater treatment services. Each user or user class must pay their proportionate share of the costs of wastewater treatment services based on the quantity and quality of their discharge.

(2) Notification. Each user shall be notified annually in conjunction with their regular bill of the rate being charged for wastewater treatment services and that user charges are being used for the equitable recovery of costs from users of the city's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvement depreciation, and equitable cost recover of EPA administered federal wastewater grants.

(3) Financial management system. The UCS must establish a financial management system that will accurately account for revenues generated and expenditures of the wastewater system. This financial management system shall be based on an adequate budget identifying the basis for determining the annual operating expenses, interest expense, depreciation (if appropriate), and any reserve account requirements.

(4) Charges for inflow and/or infiltration. The UCS shall provide that the cost of operation and maintenance for all flow not directly attributable to users be distributed among all users in the same manner that it distributes the costs of the actual or estimated usage.

(5) Use of revenue. Revenue derived from a wastewater project funded by an EPA Grant or State Revolving Loan, including but not limited to, sale of treatment-related-by-products, lease of land, or sale of crops grown on land purchased shall offset current user charges as well as moderate future rate increases.

(6) Other municipalities. If the wastewater system accepts wastewater from other local governments, these subscribers receiving wastewater treatment services shall adopt user charge systems in accordance with the same state regulations requiring this section.

(7) Inconsistent agreements. This UCS shall take precedence over the terms or conditions of contracts between the city and users which are inconsistent with the requirements of this section.

(8) Classification of users:

Class 1: Those users whose average biochemical oxygen demand (BOD) is 250 milligrams per liter by weight or less, and whose suspended solids (SS) discharge is 250 milligrams per liter by weight or less. (C1)

Class 2: Those users whose average BOD exceeds 250 milligrams per liter concentration by weight and whose SS exceeds 250 milligrams per liter concentration. (C2)

(9) Determination of costs. The governing body shall establish monthly rates and charges for the use of the wastewater system and the services supplied by the wastewater system. These charges shall be based upon the cost categories described as operation, maintenance and replacement (OMR); interest (I); and, principal repayments or depreciation, whichever is greater (P).

(a) All users who fall under Class 1 shall pay a single unit charge expressed as dollars per 1000 gallons of water purchased with the unit charge being determined by the following formula:

$$C1 = OMR + I + P / \text{Total gallons treated (thousands)}$$

(b) All users who fall within the Class 2 classification shall pay the same base unit charge per 1,000 gallons of water purchased as for the Class 1 users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand (BOD) and suspended solids (SS) in direct proportion to the actual discharge quantities.

C2 = C1 plus the following formula for excessive strength:

$$[A(D-250) + B(E-250) + C(F-251)] \times .00834 \times G = \text{Surcharge Payment (\$/Mo.)}$$

The components of the formula are as follows:

A = Surcharge rate for BOD, in \$/pound.

B = Surcharge rate of SS, in \$/pound.

C = Surcharge rate for other pollutant(s) in \$/pound.

D = User's average SS concentration, in mg/l.

E = User's average SS concentration, in mg/l.

F = User's average other pollutants concentration, in mg/l.

G = User's monthly flow to sewage works, per 1,000 gallons.

No reduction in sewage service charges, fees, or taxes shall be permitted because of the fact that certain wastes discharged to the

sewage works contain less than 250 mg/l of BOD, 250 mg/l of SS or 25 mg/l of other pollutant(s).

(3) The volume of water purchased which is used in the calculation of wastewater use charges may be adjusted by the utilities manager if a user does not discharge it to the public sewers (i.e., filling swimming pools or industrial heating.) The user shall be responsible for documenting the quantity of wastewater actually discharged to the public sewer.

The mayor and board of commissioners will review the user charges annually along with the budget process and revise the rates as necessary to ensure that adequate revenues are generated to pay OMR, I and P. The periodic review shall also ensure that the system continues to provide for the proportional distribution of these costs among users and user classes.¹ (1994 Code, § 18-211)

18-212. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of South Pittsburg, Tennessee. (1994 Code, § 18-212)

18-213. Water distribution--system design. (1) Description of system layout. The layout of extensions of the South Pittsburg Board of Water Works System from a design concept, for convenience, will be the circle or belt system circumventing smaller crossover or gridiron systems.

(2) Pre-design conference. Before beginning a system extension design, the design engineer should first confer with the South Pittsburg Board of Water Works in regard to the growth potential and density that may be expected in the general area of the extension being planned. A conference with the South Pittsburg Board of Water Works staff should follow to discuss the system standards and requirements as well as any problems related to the mains being extended.

(3) Plans and specifications approval. (a) Detailed plans and specifications for a proposed extension must be submitted to the company for approval. Once approval has been obtained, the detailed plans and specifications must be submitted to the Tennessee Department of Health and Environment, Division of Water Supply, for approval.

(b) Each plan sheet shall bear an appropriate title block showing the name of the project, location, owner, engineer, date, scale in feet, true north where applicable, sheet number and revision date.

Each sheet shall contain a blank area at least 4 inches by 6 inches near the title block for imprinting the official "Approved for Construction" stamps of the Tennessee Department of Health and Environment and the

¹These rates are recorded in this title, chapter 3.

South Pittsburg Board of Water Works. Plans shall be clear and shall conform to the requirements of the South Pittsburg Board of Water Works Standards. Plans should be blue line, on sheets 24 inches by 36 inches.

(c) Plans of water mains: A plot plan of existing and proposed water mains shall be submitted for projects involving substantial additions to the existing water distribution system. The plan shall show the location and size of all proposed water mains. A vicinity map must accompany all water main extension plans.

(d) Detailed plans: Plans should have a scale of not more than 100 feet to the inch and must show:

(i) Locations of streets and water mains, size of mains, material and type of pipe.

(ii) All known existing structures both above and below ground which might interfere with the proposed construction, particularly sewer lines, gas mains, storm drains, etc.

(iii) No other utilities shall be drawn except for clarification or reference.

(4) Minimum distributor pipe size. (a) The minimum size pipe shall be 6 inch diameter. Two inch pipe will be permitted for serving cul-de-sacs having lengths of 300 feet or less, provided it has been determined by the South Pittsburg Board of Water Works that there will never be a future need for its extension.

(b) The size of pipe shall be justified by hydraulic analysis performed by an engineer who holds a valid license to practice in the State of Tennessee. Distributor pipes should be capable of providing a minimum flow of 450 gallons per minute except in cases of extending 2 inch pipes as provided under § 18-213(4)(a) of these standards. The distributor pipe, including any 2 inch pipes, shall be designed to maintain a minimum pressure of 20 psi at ground level at all points in the system under all conditions of flow.

(c) All assumptions and any flow data used by the design engineer must be clearly documented and submitted with the hydraulic calculations. If actual flow data are not available, theoretical calculations shall be based on all storage facilities being half-full and the appropriate Hazen and Williams friction factor shall be applied for the type pipe being used, but in no case shall such friction factor be greater than 130.

(d) Distributor pipes should be sized for an instantaneous peak demand of 750 gallons per minute except in cases where 2 inch pipe is used as provided for under § 18-213(4)(a) of these standards. When using 2 inch pipe, an instantaneous peak demand of 5 gallons per connection shall be assumed.

(5) Fire protection. (a) Fire hydrants should not be connected to distributor pipes which are not capable of providing a flow of 750 gallons per minute at a residual pressure of 30 psi.

(b) When fire protection is being provided, fire hydrants shall be located at points designated by the South Pittsburg Board of Water Works.

(c) The minimum pipe size to which a fire hydrant may be connected is 6 inch.

(6) Dead ends. (a) Dead ends shall be minimized.

(b) Where dead end distributor pipes occur, they should be provided with a fire hydrant when fire protection is being provided, or an approved blow-off assembly for flushing purposes.

(7) Gate valves. (a) Gate valves shall be placed at all intersections of distributor pipes. Two valves shall be placed at each tee; one installed in the run and the other installed in the branch. Three valves shall be placed at each cross. Valves should be positioned in the pipe line approximately 3 feet distance from the tee or cross.

(b) Valves at no time shall be placed greater than 3,000 feet apart unless otherwise specified by the South Pittsburg Board of Water Works.

(c) Valves shall be placed on lead-outs approximately 3 feet from fire hydrants except those having lead-outs to be connected to fire hydrant type tees, in which case, the valves may be connected to such fire hydrant tee.

(8) Bends. Bends in 6 inch pipe and greater shall be minimized. They should be placed in distributor pipes only in making necessary vertical or horizontal changes in pipe direction. (1994 Code, § 18-213)

18-214. Water distribution--details of design and construction of distributor mains. (1) Pipe support. Adequate support shall be provided for all pipes.

(2) Pipe bedding. A continuous and uniform bedding shall be provided in the trench for all buried pipe.

(3) Stones found in the trench shall be removed for a depth of at least six inches below the bottom of the pipe.

(4) All distributor mains shall be provided with sufficient earth or other suitable cover to prevent freezing and to provide protection to the pipe. The cover shall not be less than 36 inches for 6 inch and 8 inch pipe and 42 inches for 10 inch and 12 inch pipe measured above the top of the pipe.

(5) Pipe alignment. Alignment of pipe shall be installed as true as practical. When it becomes necessary to deflect pipe alignment, such deflection shall be limited to 5 degrees per pipe joint when using ductile iron pipe. The radius of curvature using 2-inch pvc pipe shall be limited to a minimum of 50 ft.

(6) Hydrostatic tests. (a) Pressure and leakage tests shall be performed in accordance with AWWA Standard C-600 and/or manufacturer's specific installation procedures.

(b) The test pressure of the installed pipe shall be a minimum of 150 psi or 1.5 times the working pressure, whichever is greater.

(c) Allowable leakage shall be no greater than as calculated in $L = ND P / 7400$, where L is allowable leakage in gallons per hour, N is number of joints in the test section, D is the pipe diameter in inches, and P is the test pressure in psi.

(7) Disinfection of new distributor mains. The specifications shall include detailed procedures for the adequate flushing, disinfection, and (total coliform) bacteriological testing of all new mains. Disinfection as described in current AWWA Standard C-601 will be accepted.

(8) Disinfection when cutting into or repairing existing distributor mains. (a) Shall be performed when mains are wholly or partially dewatered.

(b) Shall follow current AWWA Standard C-601 procedures including trench treatment, swabbing with hypochlorite solution, flushing and/or slug chlorination as appropriate.

(c) Bacteriological testing should be done after repairs are complete, but the water line may be returned to service prior to completion of testing to minimize the time users are out of water.

(d) Leaks or breaks that are repaired with clamping devices while mains remain full of water under pressure require no disinfection.

(9) Means of detecting PVC pipe. When PVC pipe is installed, a minimum size 12 gauge copper wire or other acceptable means of detection shall be installed along the pipe.

(10) Separation of water mains and sewers. (a) General: The following factors should be considered in providing adequate separation:

(i) Materials and type of joints for water and sewer pipes.

(ii) Soil conditions.

(iii) Service and branch connections into the water main and the sewer line.

(iv) Compensating variations in the horizontal and vertical separations.

(v) Space for repair and alterations of water and sewer pipes.

(vi) Off-setting of pipes around manholes.

(vii) Water mains and sanitary or storm sewers shall not be laid in the same trench.

(b) Parallel installation:

(i) Normal conditions - Water mains shall be laid at least 10 feet horizontally from any sanitary sewer, storm sewer or sewer

manhole, whenever possible; the distance shall be measured edge-to-edge.

(ii) Unusual conditions - When local conditions prevent a horizontal separation of 10 feet, a water main may be laid closer to a storm or sanitary sewer provided that:

(A) The bottom of the water main is at least 18 inches above the top of the sewer;

(B) Where this vertical separation cannot be obtained, the sewer shall be constructed of materials and with joints that are equivalent to water main standards of construction and shall be pressure tested to assure watertightness prior to back filling.

(c) Crossings:

(i) Normal conditions - Water mains crossing house sewers, storm sewers, or sanitary sewers will be laid to provide a separation of at least 18 inches between the bottom of the water main and the top of the sewer whenever possible.

(ii) Unusual conditions - When local conditions prevent a vertical separation as described under § 18-214(10)(c)(i) of these standards, the following shall be used:

(A) Sewers passing over or under water mains should be constructed of the materials described in § 18-214(10)(b)(ii) of these standards.

(B) Water mains passing under sewers shall, in addition, be protected by providing a vertical separation of at least 18 inches between the bottom of the sewer and the top of the water main; adequate structural support for the sewers to prevent excessive deflection of joints and settling on and breaking the water mains; that the length of water pipe be centered at the point of crossing so that the joints will be equidistant as far as possible from the sewer. Both the sewer and the water main shall be constructed of waterpipe and tested in accordance with § 18-214(6) of these standards.

(d) Sewer manholes: No water pipe shall pass through or come into contact with any part of a sewer or sewer manhole.

(11) Surface water crossings. Surface water crossings, both under and over water, present special problems which should be discussed with the South Pittsburg Board of Water Works and Sewers and the Tennessee Department of Health and Environment, Division of Water Supply before plans are prepared.

(a) Above water crossings - The pipe shall be:

(i) Adequately supported;

(ii) Protected from damage and freezing;

(iii) Accessible for repairs and replacement.

(b) When crossing water courses which are greater than 15 ft. in width:

(i) The pipe shall be of special construction, having flexible, watertight joints;

(ii) Valves shall be provided at both ends of the water crossing so that the section can be isolated for test or repair, the valves shall be easily accessible and not subject to flooding;

(iii) Sampling taps should be available at each end of the crossing;

(iv) Permanent taps should be made for testing and locating leaks.

(12) Cross connections. (a) There shall be no physical connection between the distribution system and any pipes, pumps, hydrants, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into the system.

(b) The approval of the Tennessee Department of Health and Environment, Division of Water Supply, shall be obtained for interconnections between potable water supplies.

(c) Neither steam condensate nor cooling water from engine jackets or other heat exchange devices shall be returned to the potable water supply.

(13) Water services and plumbing. Water services and plumbing shall conform to the Standard Plumbing Code as may be revised and adopted from time to time by the South Pittsburg Board of Water Works and Sewers. (1994 Code, § 18-214)

18-215. Water distributions--products. (1) General. (a) Used water main pipe that meet these standards may be used again, after the pipe has been thoroughly cleaned and restored practically to its original condition.

(b) Packing and jointing materials used in the joints of pipe shall meet the standards of the American Water Works Association. Either mechanical joints or slip-on joints with rubber gaskets are required for pipe.

(2) Pipe. (a) Pipe shall meet latest requirements of AWWA Standard C-151, Class 50 thickness, cement-mortar lined meeting the latest requirements of AWWA Standard C-110, with either mechanical joints or slip-on joints with rubber gaskets. Ductile iron pipe shall be either American Cast Iron, U.S. Pipe, Griffin, McWane Pipe, or approved equal.

(b) PVC pipe two inches in diameter when permitted to be used under § 18-213(4)(a) of these standards, shall be SDR-21, Class 200 pressure rated and may be used where the working pressure does not exceed 145 psi. The pipe must meet the requirements set forth in ASTM Standard D-2241 for 2-inch through 12-inch pipe designated SDR-21.

The pipe must bear the Nation Sanitation Foundation Testing Laboratories, Inc. seal of approval for potable water or an approved equal.

(c) Pipe shall be bell-end type.

(d) Gaskets and lubricants intended for use with PVC pipe shall be made from materials that are compatible with the plastic material and with each other when used together, but will not support the growth of bacteria and will not adversely affect the potable qualities of the water that is to be transported. Gaskets shall be the elastomeric type and shall be manufactured to conform with the requirements of ASTM F-477.

(e) Solvent cemented joints in the field are not permitted.

(f) Pipe lengths shall be 20 feet.

(3) Tees, crosses and bends. (a) Tees, crosses, and bends for use with ductile iron pipe shall be cement-mortar lined, all mechanical joint.

(b) Tees, crosses, and bends for use with ductile iron pipe shall be either 250 psi pressure rating cast iron meeting the latest requirements of AWWA Standard C-110 or 350 psi pressure rating ductile iron meeting the latest requirements of AWWA Standard C-153.

(c) Tees, crosses, and bends for use with 2-inch PVC pipe shall be bell-type, factory welded and shall meet the requirements for bells of pipe as set forth in ASTM Standard D-2241 for 2-inch through 12-inch pipe designated SDR-21.

(d) Mechanical joint and plain end tees or bends meeting all other requirements of this standard will be permitted.

(e) Mechanical joint locked hydrant tees will be permitted for connecting to fire hydrant lead-outs.

(4) Reducers. (a) Reducers for use with ductile iron pipe shall be cement-mortar lined mechanical joint.

(b) Reducers for use with ductile iron pipe shall be either 250 psi rating cast iron meeting the latest requirements of AWWA Standard C-110 or 350 psi rating ductile iron meeting the latest requirements of AWWA Standard C-153.

(c) Mechanical joint and plain end reducers meeting all the requirements of this standard will be permitted.

(d) Reducers for transition from 6-inch or greater ductile iron pipe to 2-inch PVC pipe shall be accomplished by use of a mechanical joint or slip-on plug which has been provided with a 2-inch tap. A 2-inch bell and 2-inch NPT PVC transition fitting meeting the requirements as set forth in ASTM Standard D-2241 for 2-inch through 12-inch pipe designated SDR-21 connected to the tapped plug will effect an approved reduction. The 2-inch connection to 6-inch and greater ductile iron pipe shall be made only at branches of tees, crosses and at the ends of ductile iron pipe.

(5) Caps and plugs. (a) Caps and plugs for use with ductile iron pipe shall be mechanical joint except for slip-on type plugs which shall be

restrained type, with cast lugs and furnished with a minimum of four restraining cap screws.

(b) Mechanical joint caps and plugs shall be either 250 psi pressure rating cast iron meeting the latest requirements of AWWA Standard C-110, or 350 psi rating ductile iron meeting the latest requirements of AWWA Standard C-153.

(c) Caps for 2-inch PVC pipe may be effected by using a 2-inch galvanized NPT cap and a 2-inch PVC plain end and 2-inch NPT transition fitting meeting the requirements as set forth in ASTM Standard D-2241 for 2-inch through 12-inch pipe designated SDR-21.

(6) Sleeves. (a) Sleeves for use in connecting 6-inch and greater pipe shall be mechanical joint.

(b) Sleeves shall be 250 psi pressure rating cast iron meeting the latest requirements of AWWA Standard C-110 or 350 psi pressure rating ductile iron meeting the latest AWWA Standard C-153.

(7) Valves. (a) Gate valves six inches NPS and greater shall be mechanical joint, resilient-seat type, iron body, non-rising stem, "O"-ring, stem seal type, 2-inch operating nut, open counterclockwise.

(b) Gate valves six inches NPS and greater shall meet the latest requirements of AWWA Standard C-509.

(c) Gate valve pressure ratings shall be 200 psi.

(d) Gate valves six inches NPS and greater and meeting the latest requirement of AWWA Standard C-509 shall be either Mueller Company, Model A-2370; U.S. Pipe & Foundry Company, Model 5460; McWane Pipe and Foundry, Model F-6100; Clow Company, Model 5065; M&H Company, Model 3067-01; and American Cast Iron Company, American Darling, or any succeeding model numbers, or approved equal.

(e) Rubber-seated butterfly valves meeting the latest requirements of AWWA Standard C-504 will be acceptable for use on 8-inch or greater pipe. Rubber-seated butterfly valves shall open counterclockwise, furnished with a 2-inch operating nut, mechanical joint type, Class 150B.

(f) Shop drawings of butterfly valves must be submitted to the South Pittsburg Board of Water Works for approval.

(g) Valves for 2-inch PVC shall be gate valve type, bronze body, fully bronze mounted, tapped inside 2-inch NPT, open counterclockwise, equipped with operating hand well. 2" valves shall be Red and White, Catalog No. 298; Jenkins, Catalog No. 47-U; Hammond No. 1B62-9; Nibco Model No. T-134; Milwaukee Model No, or any succeeding model/catalog numbers.

(8) Valve boxes. Only valve boxes with PVC body and cast iron top will be permitted.

(9) Blow-off assemblies. (a) Blow-off assemblies for dead-end 2-inch PVC pipe may be effected by installing a 2-inch size flush type fire

hydrant equipped with one 2-1/1-inch hose nozzle having National Standard Hose Coupling threads, or the blow-off assemblies may be effected by other means approved by the South Pittsburg Board of Water Works. Hydrant bury shall be a minimum of 36 inches. Hydrant should have 2-inch NPT screwed in connection, minimum 150 psi working pressure, open counterclockwise, 1-1/1-inch pentagon operating nut. A cast iron housing shall be furnished with the blow-off hydrant which is equipped with a lock-down cast iron cover with the words "FIRE HYDRANT" embossed on its top surface. A shop drawing of the hydrant should be submitted to the South Pittsburg Board of Water Works for approval.

(b) A 2-inch gate valve meeting the requirements set forth under § 18-215(7)(g) of these standards shall be installed in the 2-inch PVC pipe approximately three feet from the blow-off hydrant.

(c) Blow-off assemblies for dead-end 6-inch and greater pipe located inside the City of South Pittsburg corporate limit shall be effected by the installation of a 3-way fire hydrant meeting the requirements under § 18-215(10) of these standards. A gate valve meeting the requirements under § 18-215(7) of these standards with a valve box meeting the requirements under § 18-215(8) of these standards shall be located approximately three feet from the installed blow-off hydrant.

(d) Blow-off assemblies for dead-end 6-inch and greater pipe located outside the City of South Pittsburg corporate limit may be effected by the installation of a 2-inch size flush type fire hydrant and a 2-inch gate valve meeting the requirements under § 18-215(9)(a) and § 18-215(9)(b), respectively, of these standards, or the blow-off assemblies may be effected by other means approved by the water quality control department.

(10) Fire hydrants. (a) Fire hydrant shall conform to the latest requirements of AWWA Standard C-502.

(b) Hydrant shall be equipped with two 2-1/2 inch hose outlet nozzles and one 4-1/2 inch pumper out nozzle.

(c) Nozzle thread shall conform with NFPA No. 194 for National Standard Fire Hose Coupling Screw Threads.

(d) Size of hydrant main valve shall be 5-1/4 inch nominal diameter.

(e) Size of hydrant inlet shall be 6-inch MI with one set of MJ accessories.

(f) Direction of rotation of the operating nut to open shall be counterclockwise.

(g) The operating nut shall be pentagonal in shape. The pentagon shall measure 1-1/2 inches from point to flat at the base of the nut and 1-7/16 inches at the top, and the height of the nut shall not be less than one-inch.

- (h) Color of the finish paint above the ground line shall be Red.
- (i) Hydrant shall be equipped with harnessing lugs.
- (j) Affidavit of Compliance shall be furnished for each hydrant.
- (k) Outlet nozzle-cap chains will not be required.
- (l) Hydrant shall be the Mueller Company, Centurion, Catalog No. A-423. The U.S. Pipe and Foundry Company Sentinel, or any acceptable revisions of these models.

(11) Thrust blocking. (a) Thrust forces are created in a pipeline at changes in direction, tees, dead-ends or where changes in pipe size occur at reducers. Acceptable restraint measures include concrete thrust blocks, restrained joints and tie rods. The details and dimensional data for concrete thrust blocks for 100 psi working pressure and soil bearing at 1000 pounds per square foot are given in the Water Quality Control Dept. Standard Drawing TB 1a and 1b. For greater pressures or less soil bearing capacity, the quantities required should be calculated.

(b) When iron tie rods are being used, all parts of such tie rods exposed to soil or weather shall be given a final coating with asphalt for protection. Tie rods shall not be less than nominal 3/4 inch in diameter.

(12) Tapping sleeves and valves. (a) Tapping sleeves shall be cast iron with mechanical joint ends rated for 200 psi working pressure. End gaskets shall be duct-tipped type. Tapping sleeves shall be appropriately sized for use on O.D. pipe to be tapped. Tapping sleeves should be provided with tapped bosses for testing purposes. Side flange bolts and pipe shall be of corrosive resistant material. Tapping sleeve shall be U.S. Pipe Company, type 9 mechanical joint cast iron with non-corrosive bolts and nuts, duct-tipped gaskets or approved equal.

(b) Tapping valves shall meet all requirements for gate valves under § 18-215(7) of these standards except flange valve inlets Class 125 and mechanical joint outlets shall be provided. Tapping valve shall be U.S. Pipe Company, Hydragate No. 6860, or approved equal, and any succeeding catalog number for same.

(13) Cut-in sleeves and valves. (a) Cut-in sleeves shall be cast iron mechanical joint and plain end, Class 200 pressure rated. Gaskets shall be duct-tipped. Mechanical joint gland shall be provided with set screws for bonding. Cut-in sleeves shall be Mueller Company H-842, or approved equal.

(b) Cut-in valves shall be cast iron mechanical joint for use in ductile iron and cast iron pipe. Gaskets shall be duck-tipped. All other requirements for gate valves under § 18-215(7) of these standards shall be met. Cut-in valves shall be Mueller Company H-862, or approved equal.

(14) Repair sleeves. (a) Repair sleeves used for repairing 6-inch and greater pipe may be either cast iron or ductile iron split type having appropriate pipe diameter range, mechanical joint ends, for 200 psi

working pressure, furnished with two duck-tipped end gaskets. Split repair sleeves shall be Mueller Company, Catalog No. H-785, or approved equal.

(b) Full circumferential stainless steel band-type couplings having appropriate pipe diameter range may be used for repairing 6-inch and greater pipe. Stainless steel band-type repair couplings must be capable of withstanding test pressures of 300 psi at a torque of 70 foot pounds for 5/8-inch bolts and 90 foot pounds for 3/4-inch bolts, equipped with malleable iron lugs meeting ASTM A-47 Grade 32510, or ductile iron per ASTM A-536, Grade 60-40-18, with supporting side fingers, furnished with Grade 30 specially compounded rubber of new materials with ingredients to produce superior storage characteristics, performance and resistance to set after installation, bolts of high strength low alloy steel with heavy hexagon nuts meeting the latest requirements of AWWA Standard C-111.

(c) Repair of 2-inch PVC pipe shall be accomplished by replacing damaged pipe using 2-inch PVC pipe and either PVC couplings meeting the requirements as set forth in ASTM Standard D-2241 for 2-inch through 12-inch pipe designated SDR-21, or compression couplings of iron having galvanized protection with rubber gaskets having 5-inch minimum length.

(15) Copper tubing for service lines. (a) Copper tubing shall be seamless, type K soft tempered.

(b) Copper tubing shall meet the requirements as set forth in ASTM Standard B-88 and AWWA Standard C-800 Appendix A for type K.

(c) Copper tubing shall be supplied in either 60-foot coils or 100-foot coils.

(d) Copper tubing sizes shall be limited to 3/4 inch nominal diameter and 1-inch nominal diameter.

(16) Corporation stops. (a) Corporation stops shall meet the latest requirements of AWWA Standard C-800.

(b) Corporation stop inlets shall have AWWA threads, and the outlet shall have tapered threads conforming to ANSI B2.1. Outlets shall have male ends sufficient to accommodate copper flare coupling nuts.

(c) Coupling nuts for use with flared type K copper service tubing shall meet the latest requirements of AWWA Standard C-800.

(d) Corporation stops shall be limited to size 3/4 inch and 1-inch.

(e) Corporation stops shall be Mueller Company, Catalog No. H-15000; The Ford Meter Box Company, Catalog No. F600, or approved equal, or any succeeding catalog numbers.

(17) Copper service unions. (a) Unions for copper service tubing shall be the copper service thread, three-part type meeting the latest

requirements of AWWA Standard C-800. The coupling nuts of the unions shall have copper service threads and shall meet the latest requirements of AWWA Standard C-800.

(b) Copper service unions shall be used when coupling copper service tubing.

(c) Three-part copper service unions shall be limited to size 3/4 inch, 1-inch, and 3/4 inch by 1-inch.

(18) Tapped saddles (for 2-inch PVC pipe). (a) Saddles shall be used in connecting 3/4 inch and 1-inch service taps to 2-inch PVC pipe.

(b) Saddles shall be of 85% copper and 5% each of tin, lead, and zinc.

(c) Saddles shall be double strap, two-part type. The upper and lower castings may be hinged together with a stainless steel pin. The screws connecting the upper and lower castings shall be of bronze. The lower casting shall be tapped to accept the screws. Saddles shall be designed to form hydraulic seal between the pipe and a rubber gasket to be furnished with each saddle.

(d) Outlets of saddles shall be tapped 3/4 inch or 1-inch iron pipe thread except when the water quality control department desires that a corporation stop be installed, in which case the saddle shall be tapped 3/4 inch or 1-inch AWWA thread.

(e) Saddles shall be designated to be satisfactory for use with water up to 100 psi in accordance to Section 3, General Design under the latest requirements of AWWA Standard C-800.

(f) Saddles shall be the Ford Meter Box Company, Inc. Catalog No. S71-203 for 3/4 inch iron pipe thread; S71-204 for 1 inch iron pipe thread; S70-203 for 3/4 inch AWWA thread; S70-204 for 1 inch AWWA thread, or approved equal, or succeeding catalog numbers covering same.

(19) Service fittings. (a) Adapters 1. Service fittings for use in 3/4 inch and 1-inch copper service tubing shall meet the latest requirements of AWWA Standard C-800.

(b) Adapters for use in 3/4 inch and 1-inch copper service tubing may be straight, quarter bend, or eighth bend.

(c) Adapter inlets shall be flared copper except for corporation stop adapters.

(d) Adapters having 3/4 inch inlets shall have either male or female iron pipe thread outlets of either 3/4 inch or 1-inch size.

(e) Adapters having 1-inch inlets shall have either male or female iron pipe thread outlets of 1-inch.

(f) Corporation stop adapters shall have inlet threads compatible with old type corporation stop threads. Outlets of corporation stop adapters shall be copper flare with copper service threads. Gaskets used with corporation stop adapters shall be copper. Corporation stop

adapters shall be used only for corporation stop sizes 5/8 inch, 3/4 inch and 1-inch.

(g) Threaded pipe nipples for use in setting 2-inch and greater meters shall be of nominally 85% copper and 5% each of tin, lead and zinc. Pipe nipple threads shall be NPT.

(i) Tees for copper service pipe shall be flared copper to copper. Sizes shall be limited to 3/4 inch and 1-inch. Tees may have combination of 3/4 inch and 1-inch branches and runs when deemed appropriate.

(ii) Brass plugs of either 5/8 inch, 3/4 inch or 1-inch size having AWWA threads shall be used to plug taps where corporation stops have been removed from service.

(20) Water meters. (a) Water meter sizes 5/8 inch and 1-inch:

(i) Shall be the displacement type.

(ii) Shall be the frost-proof type with cast iron bottom plate.

(iii) Casing shall be of copper alloy containing not less than 75 percent copper.

(iv) Register shall be the hermetically sealed magnetic type, straight reading, U.S. Gallons, with test hand.

(v) Shall meet the latest requirements of AWWA Standard C-700.

(vi) 5/8 inch meters shall be Badger Meter, Inc., Recordall, Model 25; Rockwell International 5/8 inch SR, and any succeeding model numbers or approved equal.

(vii) One inch meters shall be Badger Meter, Inc., Recordall, Model 40; Rockwell International, 1-inch SR, and any succeeding model numbers or approved equal.

(b) Water meter size 2-inch:

(i) Shall be the compound, single register magnetic flange type.

(ii) Casings shall be of copper alloy containing not less than 75 percent copper and shall be furnished with tapped boss for field testing purposes.

(iii) Shall be furnished with oval companion flanges of copper alloy containing not less than 75 percent copper, gaskets, bolts, and nuts. Thickness of oval flanges shall be as required for Class 125 round flanges.

(iv) Register shall be the hermetically sealed type, straight reading, U.S. Gallons, with test hand.

(v) Shall meet the latest requirements of AWWA Standard C-702.

(vi) Meters shall be Badger Meter, Inc., 2-inch compound; Rockwell International, 2-inch SRM compound, or approved equal.

(c) Shop drawings and performance data for water meters greater than 2-inch size shall be submitted to the Water Quality Control Department for approval. Flow demand, head loss, and range of user's expected flows will be considered by the Water Quality Control Department in making evaluation of such meters.

(21) Meter yokes (for 5/8 inch and 1-inch meters).

(a) Yokes shall be the riser type for brass thread & coupling.

(b) The inlet shall have an all bronze inverted key angle valve close-coupled to the yoke piece.

(c) The outlet shall have an all bronze all close-coupled to the yoke piece.

(d) The yoke piece shall be of cast iron, holding the inlet and outlet pipes, braced and correctly spaced.

(e) Yoke angle valves and ells shall be connected to the yoke piece such that they can be rotated to connect to piping below.

(f) A three-part expansion connection capable of being screwed on one end of the meter shall be furnished with each yoke. The expansion shall expand by turning a hand wheel to make water tight compression against rubber gaskets in the yoke ends.

(g) Yokes shall be used for all 5/8 inch and 1 inch meter settings.

(h) Yokes shall be the Ford Meter Box Company, Catalog No. 509, both ends flared copper for 5/8 inch meter settings and Catalog No. 512, both ends brass thread & coupling, for 1 inch meter settings, and Mueller Catalog No. H-5010 for 5/8 inch and 1-inch meter settings, or approved equal, and any succeeding catalog numbers.

(22) Meter boxes. (a) Meter boxes shall be constructed of two part cast iron. Inside dimensions must be 18 X 9 1/4. Lid shall have lifting holes and have the word "WATER" engraved. Boxes shall be Acheson V-8400 or equivalent.

(b) Meter boxes for 1 inch meter settings for non-traffic conditions shall be the two-part rectangular concrete type having minimum inside dimensions of 10 inches by 17 inches. The cover shall be rectangular of concrete furnished with a cast iron hinged reader lift having minimum dimensions of 4 inches by 7 inches provided with a keyhole for lifting.

(c) The minimum depth of combined two-part meter box sections for setting 5/8 inch and 1 inch meters shall be 18 inches.

(d) Meter box upper sections shall be designed with recesses for receiving covers. Covers and upper meter box sections shall be designed for easy cover removal and such that cover top surface when set will be flush with that of the upper meter box section rim.

(e) Meter boxes for 2-inch meter setting shall be the three-part rectangular concrete type having a combined minimum depth of 36 inches

and minimum inside dimensions of 15 inches by 26 inches. Covers shall be the two-part cast iron type and shall be furnished with embossed tread markings and the word "WATER" on the top surface and shall be provided with a keyhole or other easy means for lifting cover sections. Meter boxes and covers shall be capable of supporting minimum wheel loads of 16,000 pounds.

(f) Meters greater than 2-inch size shall be set in vaults. Drawings of the proposed vaults shall be submitted to the Water Quality Control Department for approval. Vaults in general shall be of poured in place reinforced concrete or of masonry construction having a minimum depth of 36 inches. The cover may be of reinforced concrete provided with any easy means for reading and removal of the meter and/or appurtenances. Factory type covers will be considered by the Water Quality Control Department.

(h) Meter boxes shall be as follows or approved equal:

(i) For 5/8 inch traffic settings-Brooks Products, Inc. Catalog No. 36T, (or any succeeding catalog numbers), two-section effecting 18 inches combined depth, with cast iron cover.

(ii) For 1-inch meter traffic settings-Brooks Products, Inc. Catalog No. 37T, (or any succeeding catalog numbers), two-section effecting 18 inches combined depth, all cast iron cover.

(iii) For 2-inch meter settings-Brooks Products, Inc. Catalog No. 65T, (or any succeeding catalog numbers), three section effecting 36 inches combined depth, two-part cast iron cover. (1994 Code, § 18-215)

18-216. Water distribution--execution. (1) Preparation.

(a) Precautions and permit to excavate:

(i) Notify utility companies to locate existing facilities.

(ii) Abide by their requirements when repairing, replacing or disturbing existing facilities.

(iii) Prior to trench excavation being performed within any City of South Pittsburg public right-of-way, including public alleys, a permit shall be obtained from the city hall to perform such excavation. The trench backfill and street repair shall be made in accordance with the specifications prepared by the city as required by this chapter.

(b) Protect all vegetation and other features to remain.

(c) Protect all survey points.

(d) Trench excavation:

(i) Perform in such a manner as to form a suitable trench in which to place the pipe and so as to cause the least inconvenience to the public.

(ii) Maximum width at the crown of the pipe should be 2 feet plus the nominal diameter of the pipe.

(iii) Cut pavements along neat, straight lines with either a pavement breaker or pavement saw.

(iv) Trench depth shall be sufficient to provide a minimum cover in accordance with § 18-214(4) of these standards.

(v) Align trench as shown on the plans and in accordance with § 18-214(5) of these standards.

(vi) Shape the bottom of the trench to provide uniform bearing of the pipe on undisturbed earth throughout its entire length. Dig bell holes to aid in securing uniform support of the pipe.

(vii) When unstable soil is encountered at the trench bottom, remove it to a depth required to assure support of the pipeline and backfill to the proper grade with AASHTO M-43, Size 3 or 4 course aggregate.

(viii) Remove rock encountered in the trench excavation to a depth of 6 inches below the bottom of the pipe barrel, backfill with suitable earth, and compact to uniformly support the pipe.

(e) Sheet piling, shoring and bracing: When necessary or when directed by the engineer, put in place and maintain sheet piling, bracing, etc., as may be required to support the sides of the excavation and to prevent movement. Remove all sheet piling, shoring and bracing after backfill has been placed to a depth of 18 inches over the pipeline.

(f) Before placing pipe in the trench, field inspect for cracks or other defects. Remove defective pipe from the construction site.

(g) Swab the interior of the pipe to remove all undesirable material.

(h) Prepare the bell end and remove undesirable material from the gasket and gasket recess.

(2) Installing distributor pipes. (a) Lay all pipe in a straight line on a uniform grade and in accordance with § 18-214(5) of these standards.

(b) After applying gasket lubricant, extreme care should be taken to keep the spigot end from contacting the ground.

(c) Hone the pipe with suitable tools or equipment.

(d) The manufacturer's instruction for laying and joining pipe should be followed.

(e) Cut pipe for installing valves, fittings, etc., in a neat and workmanlike manner without damaging the pipe so as to leave a smooth end at right angles to the axis of the pipe.

(f) Locate waterlines in relation to other piped utilities in accordance with § 18-214(10) of these standards.

(3) Installing appurtenances. (a) Securely plug open ends of pipe at the close of each work day and during temporary discontinuance of pipe laying.

(b) Set all valves, fittings, fire hydrants, and other specials in a neat workmanlike manner.

(c) Use thrust blocks, restrained joints, and tie rods in accordance with § 18-215(11) of these standards.

(d) Erect fire hydrants to stand plumb with the pumper nozzle facing the street or in a direction as may be directed by the South Pittsburgh Board of Water Works.

(e) Effect drainage of fire hydrants by using a minimum of 6 cubic feet of Size No. 2 or No. 3 crushed stone.

(f) Close dead ends with caps or plugs meeting the requirements of these standards and equip with blow-off assemblies, where shown on the drawings, in accordance with § 18-215(9) of these standards.

(4) Installing water lines in street, highway, and railroad rights-of-way. (a) Permits as may be required for crossing streets, highways, and railroads and performing other work within their rights-of-way shall be obtained from the appropriate authorities.

(b) Boring and jacking methods shall be approved by the South Pittsburgh Board of Water Works.

(5) Water line pressure tests. (a) After the pipe has been laid, subject all newly laid pipe or any valved section thereof, to a hydrostatic pressure of at least 150 psi or 1.5 times the working pressure whichever is greater.

(b) Test pressure shall:

(i) Not exceed the pipe or thrust restraint design pressures.

(ii) Be of at least 2-hour duration.

(iii) Not vary by more than plus or minus 5 psi.

(iv) Not exceed twice the rated pressure of closed valves or fire hydrants included in the test section.

(v) Not exceed the rated pressure of resilient seated butterfly valves.

(c) Pressurization:

(i) Slowly fill each valved section of pipe with water.

(ii) Apply the specified test pressure, based on the elevation of the lowest point of the line or section under test, and correct to the elevation of the test gauge by means of a pump connected to the pipe.

(d) Air removal:

(i) Before applying the specified test pressure, expel air completely from the pipe, valves, and hydrants.

(ii) If permanent air vents are not located at all high points, install corporation stops at such points to expel air as the line is filled with water.

(iii) After all the air has been expelled, close the corporation stops and apply the test pressure.

(iv) At the conclusion of the pressure test, remove the corporation stops and plug or leave in place at the discretion of the Water Quality Control Department.

(e) Examination:

(i) Carefully examine all exposed pipe, fittings, valves, or hydrants that are discovered with sound material and repeat the test until it is satisfactory to the South Pittsburg Board of Water Works.

(6) Waterline leakage tests. (a) Concurrently conduct a leakage test with the pressure test.

(b) Leakage defined: The quantity of water that must be supplied into the newly laid pipe to maintain the specified test pressure after the air in the pipeline has been expelled and the pipe has been filled with water.

(c) Allowable leakage:

(i) Allowable leakage shall be determined in accordance with § 18-214(6) of these standards.

(ii) When testing against closed metal-seated valves, an additional leakage per closed valve of 0.078 gal/hr/in. of nominal size shall be allowed.

(iii) When hydrants are in the test section, test against the closed hydrant.

(7) Acceptance of installation. (a) If any test of pipe laid discloses leakage greater than that determined under § 18-216(6) of these standards, locate and repair the defective material until the leakage is equal to or less than the determined amount allowable.

(b) Repair all visible leaks regardless of the amount of leakage.

(8) Cleaning and disinfection of water lines. (a) Flush waterlines clean prior to disinfection.

(b) Thoroughly disinfect waterlines prior to placing in service.

(i) Use chlorine disinfecting agent applied to produce a 50 ppm dosage.

(ii) Allow water to escape from the ends of all lines to cause dispersion of the chlorine solution into all parts of the system.

(iii) Operate all valves and fire hydrants during the time disinfection is occurring.

(iv) Retain the chlorine solution in the lines for a period of 24 hours.

(v) At the end of the 24-hour period, the residual chlorine must be a minimum of 25 ppm. Otherwise, repeat the disinfection procedure again.

(vi) Upon refilling the lines, collect a sample for bacteriological analysis. If the same is acceptable, the lines may be connected to the system. Otherwise, repeat the disinfection procedure until acceptable samples are obtained.

(9) Water service line connections. (a) Tap water mains in the upper half of the pipe at a 4 degree angle.

(b) Do not exceed a size 1-inch tap.

(c) Maintain a distance of at least 24 inches between taps, measured along the axis of the water main.

(d) Used tapped saddles for all taps on PVC mains.

(e) Service line and meter setting sizes shall be at the discretion of the South Pittsburg Board of Water Works.

(f) Service lines shall be installed by the water company from the water mains to the edges of the street right-of-way lines or to the edges of easements provided for such water mains.

(g) Meter settings locations shall be at the discretion of the South Pittsburg Board of Water Works. (1994 Code, § 18-216)

18-217. Water distribution—standards flexibility.

(1) Interpretations of these standards and design criteria. Interpretations of these standards and design criteria or the determination of any other company standards and design criteria not covered under these standards shall be at the discretion of the South Pittsburg Board of Water Works. The decision shall be based on past practices, traditional policies, widely accepted professional principles and practices of the industry.

(2) Right of appeal. Any disagreement with the interpretations or determinations made by the company with respect to these standards or any other standards not covered herein may be appealed to the South Pittsburg Board of Water Works. (1994 Code, § 18-217)

18-218. Grease trap required. Restaurants, laundries, wash racks, vehicle service stations, private multi-user systems, engine or machinery repair shops, and other facilities that produce grease, grit, oil, lint, or other materials which accumulate and cause or threaten to cause stoppages or impair the efficiency of the city's sewers or threaten the safety of its employees, shall install and maintain a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device shall be subject to prior approval of the superintendent of the city's sewer system or the city's building inspector, and said device shall be constructed in accordance with applicable building codes. (1994 Code, § 18-218)

18-219. Compliance. All sewer users currently in existence who are or maybe affected by the provisions of sections 18-218 through 18-222 shall have one (1) year from the date of final passage¹ of these sections within which to bring their sewer connections into compliance with these sections, said users to bear the costs of said compliance. Failure to so comply will subject the user's right of access to the city's sewer system to termination, at the discretion of the board of mayor and commissioners, as well as to any other penalties prescribed in these sections. (1994 Code, § 18-219)

18-220. Inspections. There shall be conducted a quarterly inspection of all grease traps, lint traps, grit traps, oil traps, oil interceptors, and other similar devices by the building inspector of the City of South Pittsburg, Tennessee, or such other appropriate official that said city may designate. Additionally, such other, more frequent inspections of said devices may be conducted by said building inspector or other appropriate official as necessary. All users subject to said inspection shall voluntarily allow access to their systems by said inspectors and shall comply with all orders of said inspectors regarding maintenance of said devices. (1994 Code, § 18-220)

18-221. Maintenance of device. It shall be the sole responsibility of all users affected by §§ 18-218 through 18-222 to see that their respective devices are pumped yearly or otherwise maintained regularly and at least annually so as to prevent problems due to overflow or blockages caused by failure of said user to properly pump and/or otherwise maintain said device. Failure to so pump and/or maintain said device as prescribed herein shall be deemed a violation of these sections. (1994 Code, § 18-221)

18-222. Violation and penalty. Failure to comply with the provisions of these sections shall be deemed a violation of said and, upon conviction, violators shall be subject to a fine not to exceed fifty dollars (\$50.00) and/or the discontinuance of sewer services to said violator. Each separate act of noncompliance with these sections shall be deemed a separate offense for purposes of this section. (1994 Code, § 18-222)

¹These provisions were taken from Ord. #544 which passed 3rd reading May 10, 1994.

CHAPTER 3

SUPPLEMENTARY SEWER REGULATIONS¹

SECTION

- 18-301. Definitions.
- 18-302. Use of public sewers required.
- 18-303. Private sewage disposal.
- 18-304. Building sewers and connections.
- 18-305. Use of the public sewers.
- 18-306. Protection from damage.
- 18-307. Powers and authority of inspectors.
- 18-308. Violations.

18-301. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

(1) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° C. expressed in milligrams per liter.

(2) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(3) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(4) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(5) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(6) "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, and business as distinct from sanitary sewage.

(7) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

¹The regulations in this chapter are recommended to cities by the Tennessee Department of Health and Environment, Division of Sanitary Engineering.

Municipal code reference

Building, utility and housing codes: title 12.

(8) "Person" shall mean any individual, firm, company, association, society, corporation, or group.

(9) "Ph" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(10) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ($\frac{1}{2}$) inch (1.27 centimeters) in any dimension.

(11) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(12) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

(13) "Sewage" shall mean a combination of the watercarried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

(14) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(15) "Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(16) "Sewer" shall mean a pipe or conduit for carrying sewage.

(17) "Shall" is mandatory; "may" is permissive.

(18) "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

(19) "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(20) "Superintendent" shall mean the superintendent of sewage works and/or of water pollution control of the municipality, or his authorized deputy, agent, or representative.

(21) "Suspended solids" shall mean solids that are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(22) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently. (1994 Code, § 18-301)

18-302. Use of public sewers required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the municipality, or in any area under its jurisdiction, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the municipality, or in any area under its jurisdiction, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter 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.

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the municipality and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the municipality, 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 this chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the property line. (1994 Code, § 18-302)

18-303. Private sewage disposal. The disposal of sewage by means other than the use of the sanitary sewage system shall be in accordance with local and state laws. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the sanitary sewage system is not available. (1994 Code, § 18-303)

18-304. Building sewers and connections. (1) No unauthorized 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 superintendent.

(2) There shall be two (2) classes of building sewer permits:

(a) for residential and commercial service, and

(b) for service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the municipality. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent.

(3) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the municipality from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(4) 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.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test, by the superintendent to meet all requirements of this chapter.

(6) The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(8) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(10) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(11) All excavations for building sewer installations 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 municipality. (1994 Code, § 18-304)

18-305. Use of the public sewers. (1) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(2) 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 Tennessee Stream Pollution Control Board. Industrial cooling water or unpolluted process waters may be discharged, on approval of

the Tennessee Stream Pollution Control Board, to a storm sewer, or natural outlet.

(3) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

(4) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than one hundred fifty (150)° F (65° C).

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150)° F. (0 and 65°C).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc, cyanide, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent and/or the Division of Sanitary Engineering, Tennessee Department of Health and Environment, for such materials.

(f) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(g) Any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(h) Any waters or wastes having a pH in excess of 9.5.

(i) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD (above 200 mg/l), chemical oxygen demand, (above 325 mg/l), or chlorine requirement in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting "slugs" and defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(k) Waters or wastes containing suspended solids in excess of 200 mg/l.

(5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (4) of this section, and which in the judgment of the superintendent, and/or the Division of Sanitary Engineering, Tennessee Department of Health and Environment, may have a deleterious

effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

- (a) Reject the wastes,
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
- (c) Require control over the quantities and rates of discharge, and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (10) of this section.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and the Tennessee Department of Health and Environment, and subject to the requirements of all applicable codes, ordinances, and laws.

(6) Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be so located as to be readily and easily accessible for cleaning and inspection.

(7) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(8) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(9) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and

to determine the existence of hazards of life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hr. composites of all outfalls whereas pH's are determined from periodic grab samples.)

(10) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment, subject to payment therefor, by the industrial concern.

(11) Payment by any industrial concern (person) shall be at the same rate as that for all other persons using the sewage works; that is, a flat rate per 1,000 gallons of water purchased. The flat rate shall be redetermined each fiscal year, depending on the operating expenses of the sewage works. In addition to the flat rate per 1,000 gallons of water purchased, an excess strength surcharge shall be imposed on any person whose sewage strength characteristics exceed those in this chapter. The amount of the excess strength surcharge shall be redetermined each fiscal year. Similar excess strength surcharges may be imposed on other characteristics by the superintendent if the strength of said characteristics are determined to be excessive to the extent that they may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance. (1994 Code, § 18-305)

18-306. Protection from damage. No unauthorized person shall maliciously, wilfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (1994 Code, § 18-306)

18-307. Powers and authority of inspectors. (1) The superintendent and other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(2) While performing the necessary work on private properties referred to in subsection (1) of this section, the superintendent or duly authorized employees of the municipality 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 municipal employees and the municipality shall indemnify the company against loss or damage to its property by municipal employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 18-305(8).

(3) The superintendent and other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all private properties through which the municipality holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (1994 Code, § 18-307)

18-308. Violations. (1) Any person found to be violating any provision of this chapter except § 18-308 shall be served by the municipality with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in subsection (1) of this section shall be guilty of a misdemeanor, and on conviction thereof shall be fined under the general penalty clause for this municipal code of ordinances.

(3) Any person violating any of the provisions of this chapter shall become liable to the municipality for any expense, loss, or damage occasioned the municipality by reason of such violation. (1994 Code, § 18-308)

CHAPTER 4

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Correction of existing violations.
- 18-408. Use of protective devices.
- 18-409. Unpotable water to be labeled.
- 18-410. Violations.
- 18-411. Location of premises served.

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the City of South Pittsburg, Tennessee for general use and which supply is recognized as the public water supply by the Tennessee Department of Health and Environment.

(2) "Cross-connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "By-pass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Inter-connection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation

¹Municipal code reference

Plumbing and related codes: title 12.

organized or existing under the laws of this or any other state or country. (1994 Code, § 18-401)

18-402. Standards. The South Pittsburg Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-719 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, by-passes, and inter-connections, and establish an effective, ongoing program to control these undesirable water uses. (1994 Code, § 18-402)

18-403. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, by-pass or inter-connection is at all times under the direct supervision of the Manager, Water and Sewer Department of the City of South Pittsburg. (1994 Code, § 18-403)

18-404. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the manager, water and sewer department a statement of the non-existence of unapproved or unauthorized auxiliary intakes, by-passes, or inter-connections, such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (1994 Code, § 18-404)

18-405. Inspections required. It shall be the duty of the South Pittsburg Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved shall be established by the Manager of the South Pittsburg Public Water Supply and as approved by the Tennessee Department of Health and Environment. (1994 Code, § 18-405)

18-406. Right of entry for inspections. The manager, water sewer department or his authorized representative shall have the right to enter at any reasonable time any property served by a connection to the South Pittsburg Public Water Supply for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or inter-connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal

of access, when requested, shall be deemed evidence of the presence of cross-connections. (1994 Code, § 18-406)

18-407. Correction of existing violations. Any person who now has cross-connections, auxiliary intakes, by-passes, or inter-connections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Manager, Water and Sewer Department of the City of South Pittsburg Public Water Supply.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the South Pittsburg Public Water Supply, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross-connections, inter-connections, auxiliary intakes, or by-passes are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the manager of the utility shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1994 Code, § 18-407)

18-408. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation.
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the system; or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The Manager, Water and Sewer Department of the South Pittsburg Public Water Supply, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and

Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the Manager, Water Sewer Department Public Water Supply prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the South Pittsburg Public Water Supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the manager, water and sewer department or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the manager, water and sewer department shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water supply shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the Manager, Water and Sewer Department of the South Pittsburg Public Water Supply.

If necessary, water service shall be discontinued following legal notification for failure to maintain backflow prevention devices in proper working order. Likewise, the removal, by-passing, or altering of the protective device(s) or the installation thereof so as to render the device(s) 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 of the South Pittsburg Public Water Supply. (1994 Code, § 18-408)

18-409. Unpotable water to be labeled. The potable water supply made available to premises served by the public water supply be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1994 Code, § 18-409)

18-410. Violations. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and each day of continued violation after conviction shall constitute a separate offense. (1994 Code, § 18-410)

18-411. Location of premises served. The requirements contained herein shall apply to all premises served by the South Pittsburg Board of Water Works and Sewers whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the South Pittsburg corporate limits. (1994 Code, § 18-411)

CHAPTER 5

MISCELLANEOUS

SECTION

- 18-501. Building permit required for utility connections.
- 18-502. Certificate of occupancy required for utility service.
- 18-503. Permit required for utility service to mobile homes.
- 18-504. Enforcement.
- 18-505. Violations.

18-501. Building permit required for utility connections. No public or private utility department, company, or corporation shall connect utilities to any new building or structure until the property owner shall present a valid building permit, signed by the building inspector, for that structure. (1994 Code, § 18-501)

18-502. Certificate of occupancy required for utility service. No public or private utility department, company, or corporation shall begin service, turn on water, electricity, or gas, or in any way furnish service to a structure until the property owner shall present a valid certificate of occupancy, signed by the building inspector, for that structure. (1994 Code, § 18-502)

18-503. Permit required for utility service to mobile homes. Requiring a Mobile Home Permit for Initiation of Service. No public or private utility department, company, or corporation shall begin service, turn on water, electricity, or gas, or in any way furnish service to a mobile home until the mobile home owner or lessee shall present a valid mobile home permit, signed by the building inspector. (1994 Code, § 18-503)

18-504. Enforcement. It shall be the duty and responsibility of the building inspector to enforce and administer the provisions of this chapter. (1994 Code, § 18-504)

18-505. Violations. (1) Any person or corporation who violates the provisions of this chapter or fails to perform the reasonable requirements of the city building inspector after receipt of thirty (30) days written notice of such requirements, shall be guilty of a misdemeanor.

(2) If a utility department, company, or corporation does connect with the system of a structure or initiates service in violation of this chapter, the city building inspector shall direct that department, company, or corporation to close the connection and discontinue service at the department, company, or corporation's expense.

(3) Any violation of this chapter shall be punishable under the general penalty clause for this code of ordinances. (1994 Code, § 18-505)

TITLE 19**ELECTRICITY AND GAS****CHAPTER****1. GAS.****CHAPTER 1****GAS****SECTION**

19-101. Board of waterworks and sewers and Marion Natural Gas System Board.

19-102. Gas rates and charges.

19-103. Distribution or sale of propane or other liquefied petroleum gases.

19-101. Board of waterworks and sewers and Marion Natural Gas System Board. The custody, administration, operation, maintenance and control of the natural gas system of the City of South Pittsburg, which shall be known as the "Marion Natural Gas System," has been placed in a natural gas board composed of the same members as the South Pittsburg Board of Waterworks and Sewage Commissioners. The members of the natural gas board shall receive no compensation for their services. The members of the natural gas system board, and the waterworks and sewage board, shall be allowed necessary travel and other expenses while engaged in the business of the boards, including a combined allowance of seventy five dollars (\$75.00) per month for attendance at meetings, when only a single meeting during the month is attended, and one hundred twenty-five dollars (\$125.00) per month when two or more meetings per month are attended. Otherwise, the natural gas board and its members shall be subject to all the provisions prescribed by Tennessee Code Annotated, §§ 7-35-401 through 7-35-432 for the board of waterworks and sewerage commissioners and its members.

The funds and receipts of the two boards shall not be intermingled and accurate records as to the interest in the various items of property shall be made and kept. (1994 Code, § 19-101, as amended by Ord. #602, April 1998, and Ord. #616, Sept. 1999)

19-102. Gas rates and charges. All gas furnished by the city shall be furnished under such rate schedules and shall be subject to such charges as the board of mayor and commissioners may from time to time prescribe. (1994 Code, § 19-102)

19-103. Distribution or sale of propane or other liquefied petroleum gases. (1) The city's natural gas system shall be and hereby is

authorized to engage in the distribution and sale of propane or other liquefied petroleum gases with the same authority and authorization as is currently applicable to its natural gas distribution and sales activities, and that the custody, administration, operation, maintenance, control and supervision of such propane or similar activities shall be vested in the aforementioned Natural Gas Board as fully as in the case of said natural gas activities.

(2) That all ordinances theretofore adopted dealing with said natural gas system or the Natural Gas Board shall be deemed to be amended as necessary by this section so as to fully confer all necessary power and authority upon said system and said board to operate the above described propane gas and related activities. (1994 Code, § 19-103)

TITLE 20**MISCELLANEOUS****CHAPTER****1. JOINT CIVIL DEFENSE ORGANIZATION.****CHAPTER 1****JOINT CIVIL DEFENSE ORGANIZATION****SECTION**

20-101. Marion County Civil Defense Organization created.

20-102. Authority.

20-103. Responsibilities.

20-104. Office of director, his authority and responsibility.

20-105. Marion County Civil Defense Corps created.

20-106. No municipal or private liability.

20-107. Expenses of civil defense.

20-101. Marion County Civil Defense Organization created. There is hereby created the Marion County Civil Defense Organization, which shall be a joint operation by the City of South Pittsburg and the County of Marion, for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of Marion County shall be considered as a total part of the countywide civil defense emergency resources and when any agency operates out of its corporate limits it shall be at the direction of, subordinate to, and as a part of the Marion County Civil Defense Organization. (1994 Code, § 20-101)

20-102. Authority. In accordance with federal and state enactments of law, the Marion County Civil Defense Organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused emergencies or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, droughts, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare and property of the citizens of Marion County. The Marion County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The Marion County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies. (1994 Code, § 20-102)

20-103. Responsibilities. The Marion County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Marion County, to establish and coordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1994 Code, § 20-103)

20-104. Office of director, his authority and responsibility.

(1) Primary authority. (a) The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge or either or by higher authority as appropriate.

(b) The director shall have overall responsibility for the preparation of all plans, recruitment, and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state civil defense office.

(c) The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter and resolution, subject to the approval of the chief executive officers of the city and county.

(2) Responsibility of the director. The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the Marion County Civil Defense Organization, for the preparation of all plans and administrative regulations, and for recruitment and training of personnel. (1994 Code, § 20-104)

20-105. Marion County Civil Defense Corps created. The Marion County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority; it shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (1994 Code, § 20-105)

20-106. No municipal or private liability. The duties prescribed in this document are an exercise by the city and county of their governmental functions for the protection of the public peace, health, and safety and neither the City of South Pittsburg nor Marion County, nor the agents and representatives of said city and county, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with, or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this document shall be liable for any damage sustained to person or property as the result of said activity. Any person owning or controlling real estate or other premises used for the purpose of sheltering persons during an actual,

impending, or practice enemy attack, shall together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission or for loss of, or damage to, the property of such person. (1994 Code, § 20-106)

20-107. Expenses of civil defense. No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this document without prior approval by the governing bodies of the city and/or county; nor shall any person have any right to bind the city or county by contract, agreement, or otherwise without prior and specific approval by the governing bodies of the city and/or county. The civil defense director shall disburse such monies as may be provided annually by appropriation of the city and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the city and county. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of South Pittsburg or Marion County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions, and is further authorized to accept contributions to the civil defense organization from individuals and other organizations, such funds becoming liable for audit by the city and county. (1994 Code, § 20-107)

ORDINANCE NO. 661**AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE
CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF
SOUTH PITTSBURG, TENNESSEE.**

WHEREAS the Board of Mayor and Commissioners of the City of South Pittsburg, 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 "South Pittsburg Municipal Code."

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND COMMISSIONERS OF THE CITY OF SOUTH PITTSBURG, 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 "South Pittsburg 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 budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing 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, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefore; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective

date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

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

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

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and commissioners, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies

¹ State law reference

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

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.

APPROVED:

Mike Killian
Mike Killian, Mayor

ATTEST:

George Holland
George Holland, City Recorder

Passed on first reading: 2-8-05

Passed on second reading: 3-8-05

Passed on third reading: 5-10-05