THE

LA VERGNE

MUNICIPAL

CODE

Prepared by the

November 2009

Change 3
September 3, 2019

CITY OF LA VERGNE, TENNESSEE

MAYOR

Jason Cole

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ALDERMEN

Matt Church
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CITY ADMINISTRATOR/RECORDER

Bruce E. Richardson

PREFACE

The City of La Vergne Code contains the codification and revision of the ordinances of the City of La Vergne, 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 the codes team: Emily Keyser, Linda Winstead, Nancy Gibson, and Doug Brown, Administrative Specialists, is gratefully acknowledged.

Steve Lobertini
Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

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

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

Ordinance #2009-33

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF LA VERGNE, TENNESSEE.

WHEREAS, some of the ordinances of the City of La Vergne are obsolete, and

WHEREAS, some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS, the Board of Mayor and Aldermen of the City of La Vergne, 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 "La Vergne Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF LA VERGNE, 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 "La Vergne Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any

ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than 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 aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically

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[1] State law reference
For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

LEGAL STATUS PROVISIONS

Approved by the Mayor and Board of Aldermen:

Ronnie Erwin, Mayor

12-03-10
1st Reading

1-14-10
2nd Reading

ATTEST:

Bruce E. Richardson, City Recorder

Published in the Daily News Journal on 1-19-10.

MAYOR-ALDERMANIC CHARTER[1]

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[1]This compilation includes chapters 1--17 of Title 6, Tennessee Code Annotated, which contain the basic organizational provisions for this form of government. IMPORTANT NOTE: There are many other general laws affecting municipalities organized under this charter which have been omitted because they apply to all municipalities. These are found in various parts of the Tennessee Code Annotated. This compilation has been amended to reflect legislation passed in the 2016 session of the Tennessee General Assembly.

[2]If this city has adopted any related acts, those acts will follow the general law charter starting on page C-41.

MAYOR-ALDERMANIC CHARTER

CHAPTER 1

MAYOR-ALDERMANIC CHARTER--ADOPTION AND SURRENDER

PART 1 -- DEFINITIONS

SECTION

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PART 1 -- DEFINITIONS

6-1-101. Definitions.--As used in chapters 1-4 of this title, unless the context otherwise requires:

(1) "Board" means the mayor and the aldermen;

(2) "Department head" means the city administrator, city recorder, treasurer, police chief and any other department heads appointed by the board or mayor;

(3) "Officer" means the mayor, aldermen, city attorney and city judge;

(4) "This charter" refers to chapters 1-4 of this title; and

(5) "Ward" means a geographical subdivision of the municipality established for the purpose of securing representation on the board. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, § 1.]

6-1-102. "Shall" versus "may."--As used in this chapter, "shall" is mandatory and "may" is permissive. [Acts 1991, ch. 154, § 1.]

6-1-103. [Repealed.]

PART 2 -- ADOPTION OF CHARTER

6-1-201. <u>Incorporation requirements; plan of services; public hearing; proximity to existing municipalities</u>. (a) (1) The residents of any incorporated municipality or of any territory wanting to incorporate under this charter may adopt the provisions of chapters 1-4 of this title in the manner provided in this chapter. Thereupon, the municipality or territory shall be and become incorporated and be governed as set forth in this chapter. No unincorporated territory shall be incorporated under the provisions of this charter unless such territory contains not fewer than one thousand five hundred (1,500) persons, who shall be actual residents of the territory.

(2) No unincorporated territory shall be allowed to hold a referendum on the question of whether or not to incorporate under this charter until a plan of services is documented, setting forth the identification and projected timing of municipal services proposed to be provided and the revenue from purely local sources to be payable annually. The plan of services shall be attached to the petition to incorporate when such petition is filed with the county election commission. The plan of services shall include, but not be limited to, police protection, fire protection, water service, sanitary sewage system, solid waste disposal, road and street construction and repair, recreational facilities, a proposed five-year operational budget, including projected revenues and expenditures, and the revenue from purely local sources to be payable annually. Municipalities that are first incorporated on or after July 1, 1993, and that produce no local own-source revenues in any fiscal year, shall not receive any state-shared revenues during the next fiscal year.

(3) Prior to filing the petition with the county election commission, a public hearing on the referendum on the question of whether or not to incorporate under this charter and plan of services shall be conducted. The public hearing shall be advertised in a newspaper of general circulation for two (2) consecutive weeks.

(b) (1) (A) Except as provided in subdivision (b)(2), no unincorporated territory shall be incorporated within three (3) miles of an existing municipality or within five (5) miles of an existing municipality of one hundred thousand (100,000) or more in population according to the latest census certified by the department of economic and community development. "Existing municipality" and "existing municipality of one hundred thousand (100,000) or more in population" do not include any county with a metropolitan form of government with a population of one hundred thousand (100,000) or more, according to the 1990 federal census or any subsequent census.

(B) If any part of the unincorporated territory proposed for incorporation is within five (5) miles of an existing municipality of one hundred thousand (100,000) or more, according to the most recent federal census, and if the governing body of such municipality adopts a resolution by a two-thirds (2/3) vote indicating that the municipality has no desire to annex the territory, such territory may be included in a proposed new municipality. A petition for incorporation shall include a certified copy of such resolution from the affected municipality.

(2) In any county having a population of more than eighteen thousand two hundred (18,200) and less than eighteen thousand five hundred (18,500), according to the latest census certified by the department of economic and community development, if any part of the unincorporated territory proposed for incorporation is within five (5) miles of an existing municipality of one hundred thousand (100,000) or more in population or within two (2) miles of an existing municipality of more than one thousand (1,000) and fewer than one hundred thousand (100,000) in population, according to the 1990 federal census or any subsequent census, then action on the petition as provided in §§ 6-1-202 and 6-1-204 shall be held in abeyance for fifteen (15) months from the date of filing the petition. If, within this period, the existing municipality does not annex at least twenty percent (20%) of the land area or twenty percent (20%) of the population of the territory proposed for incorporation, then proceedings shall be continued as provided in §§ 6-1-202 and 6-1-204 as though the petition had been filed at the conclusion of the fifteen-month period. If the existing municipality annexes at least that part of the territory within this period, then the petition shall be null and void.

(c) Notwithstanding subsection (a) or (b) to the contrary, a territory may be incorporated if the following conditions are fulfilled:

(1) The territory contains two hundred twenty-five (225) residents or more;

(2) The territory is composed of property that is one thousand six hundred feet (1,600) or more above sea level on the western border of the territory and contiguous with a county boundary on the eastern border of the territory;

(3) The territory is located within an area that is bordered on the west, north and east by the Tennessee River and on the south by the border between Tennessee and another state; and

(4) The territory is located within a metropolitan statistical area.

(d) Notwithstanding subsections (a)-(c) to the contrary, a territory may be incorporated that meets the following conditions:

(1) The territory contains three hundred (300) residents or more;

(2) The territory's western boundary is contiguous with the western boundary of the county in which it is located;

(3) The territory is located within an area bordered on the north by the Loosahatchie River and on the south by the Wolf River;

(4) The territory's eastern boundary is approximately parallel with the western boundary, but in no place is more than eight (8) miles from the western boundary; and

(5) The territory is located within a metropolitan statistical area.

(e) Notwithstanding the requirements of this section, or §§ 6-1-202, 6-1-203, and 6-1-209, or any other provision of law to the contrary, the petition for incorporation of the territory described in this subsection (e) may consist of a letter from a resident of the territory desiring to incorporate to the county election commission requesting that the question of incorporating the territory be placed on the ballot. The letter shall describe the exact boundaries of the proposed municipality, indicate the name of the proposed municipality, and indicate under which charter the territory desires to incorporate. The letter shall be treated as a petition meeting all the requirements of law.

(f) (1) Notwithstanding any provision of law to the contrary, whenever the governing body of any existing city affected by this section, by a resolution adopted by a majority vote of its governing body, indicates that it has no interest in annexing the property to be incorporated, and when a certified copy of such resolution and a petition requesting that an incorporation election be held are filed with the county election commission, then the proceedings shall continue as provided in this chapter as though the proposed new incorporation was not within the specified distance of such existing city as provided in this section.

(2) Subdivision (f)(1) shall only apply in counties having a population of not less than eighty thousand (80,000) nor more than eighty-three thousand (83,000), according to the 1990 federal census or any subsequent federal census; provided, that in an adjoining county an existing municipality that is within the specified distance may also use the procedure authorized by subdivision (f)(1).

[Acts 1991, ch. 154, § 1; Acts 1993, ch. 320, §§ 1, 2; Acts 1995, ch. 13, § 1; Acts 1995, ch. 202, § 1; Acts 1996, ch. 666, §§ 1, 4,; Acts 1996, ch. 708, § 1, 3; Acts 1997, ch. 98, §§ 7 to 10; 1998, ch. 1101, § 27.]

6-1-202. <u>Election to incorporate; withdrawal or amendment of petition; bond</u>. (a) The county election commission shall hold an election for the purpose of determining whether this charter shall become effective for any municipality or newly incorporating territory upon the petition in writing of at least thirty-three and one-third percent (33 1/3%) of the registered voters of the

municipality or territory. The petition shall include a current list of the registered voters who live within the proposed territory. The petition shall state in a sufficient manner the boundaries of the proposed municipal corporation, which may be done by a general reference to the boundaries then existing if there is one. Upon receipt of the petition, the county election commission shall examine the petition to determine the validity of the signatures in accordance with § 2-1-107. The county election commission shall have a period of twenty (20) days to certify whether the petition has the sufficient number of signatures of registered voters. If the petition is sufficient to call for an election on the issue of incorporation, the county election commission shall hold an election, providing options to vote "FOR" or "AGAINST" the incorporation of the new charter, not less than forty-five (45) days nor more than sixty (60) days after the petition is certified. The date of the election shall be set in accordance with § 2-3-204. The county election commission shall, in addition to all other notices required by law, publish one (1) notice of the election in a newspaper of general circulation within the territory of the municipality or of the proposed municipality, and post the notice in at least three (3) places in the territory.

(b) At any time not less than thirty (30) days prior to the election provided for in this part, the petition may be withdrawn or may be amended to call for a smaller territory for the proposed municipal corporation so long as all of the proposed smaller territory is contained within the boundaries of the territory described in the first petition. The withdrawal or amendment shall be valid if filed with the county election commission in writing, and if signed by not fewer than fifty-one percent (51%) of those who signed the original petition. In the event such an amended petition is filed, all provisions relating to time periods in § 6-1-201 shall be controlled by the date of the filing of the original petition, notwithstanding the filing of the amended petition, and the county election commission shall publish the notice of election as provided for in subsection (a). A petition to withdraw, when filed with and validated by the county election commission, shall render the original petition null and void.

(c) A cash bond equivalent to the costs of the election to incorporate under this charter shall be filed by the petitioners with the county election commission together with the petition for incorporation. [Acts 1991, ch. 154, § 1; Acts 1997, ch. 98, § 4; Acts 1998, ch. 1101, § 28.]

6-1-203. <u>Incorporation petition; form; items included</u>. The petition filed in accordance with § 6-1-202 shall be in substantially the form provided in § 6-1-209 and shall include a description of the boundaries of the proposed municipal corporation and the boundaries of the proposed wards, if there is only one (1) alderman to be elected per ward, the wards that will carry the initial two-year term, the proposed name of the municipality and whether it is a city or town. The petition shall include a plan of services setting forth the identification and projected timing of municipal services proposed to be provided and the revenue from purely local sources to be payable annually. The plan of

services shall include, but not be limited to, police protection, fire protection, water service, sanitary sewage system, solid waste disposal, road and street construction and repair, recreational facilities, a proposed five-year operational budget, including projected revenues and expenditures, and a property tax rate to be annually levied upon all taxable property in the area to be incorporated. Boundary descriptions shall contain references to tax maps kept in the office of the county assessor of property. [Acts 1991, ch. 154, § 1; Acts 1993, ch. 320, § 3; Acts 1995, ch. 13, § 2.]

6-1-204. Voter eligibility; election results. (a) All registered voters of the municipality or of the territory of the proposed municipality are eligible to vote in the election.

(b) The county election commission shall determine and declare the result of the election and shall certify the result in accordance with § 2-8-105(3) within forty-eight (48) hours after the election. It shall publish the results in a newspaper of general circulation in the municipality or territory and, if the municipality is already incorporated, shall file the results with the legislative body of the municipality at its first meeting after the certification. The results shall be entered at large on the minutes of the body with which it is filed.

(c) In any election held by municipalities incorporated under this charter, registered voters of the municipality may vote in accordance with this subsection (c). Upon adoption of a resolution approved by a two-thirds (2/3) vote of the board of commissioners of any municipality incorporated under this charter that has a population of not less than seven thousand seven hundred ten (7,710) nor more than seven thousand seven hundred twenty (7,720), according to the 2000 federal census or any subsequent federal census, registered voters who own real property located in the municipality shall be entitled to vote in all municipal elections and municipal referenda held in the municipality. Section 2-2-107(a)(3) shall apply to the property rights voting within the municipality. The approval or nonapproval of the resolution shall be proclaimed by the presiding officer of the board and certified by the presiding officer to the secretary of state. [Acts 1991, ch. 154, § 1; Acts 2007, ch. 88, § 1.]

6-1-205. Adoption; applicability; refiling following defeat. (a) If the majority of the votes cast are in favor of the adoption of this charter, it shall be deemed to have been adopted. The newly adopted charter shall not be effective until the first board takes office as provided in § 6-1-207. Except for the provisions of this charter that are adopted by reference in other municipal charters, the provisions of this charter apply only to those municipalities that have adopted this charter by referendum as authorized by law.

(b) Following the defeat of an incorporation in an election held pursuant to § 6-1-202, no new petition for an election may be filed until after the expiration of four (4) years; provided, however, that if the territory included in the boundaries of the newly proposed municipal corporation includes less than

fifty percent (50%) of the actual territory subject to incorporation in the previous election, the new petition may be filed after the expiration of two (2) years. [Acts 1991, ch. 154, § 1; Acts 1995, ch. 13, § 3.]

6-1-206. Certification. After certification of the election results, if at least a majority of the votes cast are "for charter," the county election commission shall certify to the secretary of state that notice was duly given, and application in due form of law made, the description of boundaries, the entire number of votes cast, the number of votes cast "for charter," the number of votes cast "against charter," and the corporate name of the municipality. [Acts 1991, ch. 154, § 1.]

6-1-207. Elections; terms. (a) The county election commission shall call an election not later than sixty-two (62) days following the election for adoption of this charter, at which time municipal officials shall be chosen who shall take office immediately following the election. The qualifying deadline for filing nominating petitions shall be as described in § 2-5-101.

(b) In the election held pursuant to subsection (a), where there is more than one (1) alderman to be elected per ward, the alderman receiving the higher number of votes in each ward shall serve a four-year term. The alderman receiving the second higher number of votes shall serve an initial two-year term. All terms thereafter will be four (4) years.

(c) The mayor and each alderman shall serve the term for which they were elected or until their successors are elected and qualified. [Acts 1991, ch. 154, § 1.]

6-1-208. Preexisting charter; successor assets and liabilities; previous enactments.

(a) (1) This charter shall take effect in any municipality immediately after the election and qualification of the first board of mayor and aldermen, and any then-existing charter of the municipality shall immediately become null and void.

(2) The right, title and ownership of all property of the municipality and all of its uncollected taxes, dues, claims, judgments, and choses in action, and all of its rights of every kind whatsoever, shall immediately become vested in the new corporation chartered under chapters 1-4 of this title.

(3) The new corporation shall answer and be liable for all debts, contracts and obligations of the corporation it succeeds in the same manner and proportion and to the same extent as the former corporation was liable under existing laws.

(4) All ordinances, resolutions and bylaws duly enacted and in force under the preexisting charter and not inconsistent with this charter shall remain in full force until repealed, modified or amended.

(b) Any zoning ordinance applicable to any territory incorporated under this charter shall continue to apply to that territory until the municipality enacts a zoning ordinance, or enacts an ordinance rescinding the zoning that applied to such territory. [Acts 1991, ch. 154, § 1.]

6-1-209. Form petition for adoption of charter. Petitions for adoption of this charter shall be in substantially the following form:

PETITION FOR INCORPORATION ELECTION FOR TOWN (CITY) OF , TENNESSEE TO: The County Election Commission, _____ County, Tennessee

We the undersigned, being registered voters and residents of the territory herein proposed for incorporation, and being in number in excess of thirty-three and one-third percent (33 1/3%) of the registered voters of the herein described territory, hereby request the county election commission to hold an election on the question of whether or not the herein described territory shall be incorporated under the terms of Tennessee Code Annotated, title 6, chapters 1-4, and be known by the name and style of the "Town (City) of _____, Tennessee," all as prescribed in Tennessee Code Annotated, title 6, chapters 1-4.

The territory in question, being part of the _____, Civil District(s) of _____ County, Tennessee is further described as:

(Here insert a description of boundaries with references to tax maps)

The wards of the Town (City) shall be as follows:

(Here insert a description of wards, and if there is only one (1) ward state that the boundaries are as described above)

Wards that will carry an initial two-year term:
(For those municipalities incorporating with more than four (4) wards.)

The proposed plan of services is as follows: (Here insert a description of the plan of services as defined in Tennessee Code Annotated, § 6-1-203).

PETITIONERS' SIGNATURES

_____	_____	_____
Name	Residence Address	Date

(List name and residence as on registration records)

Certificate

I, _____, hereby certify that I personally solicited the signatures of the persons appearing on this page and that they, in fact, signed their names to this petition in my presence.

_____
Name

_____
Address

_____
Date

STATE OF TENNESSEE
COUNTY OF _____

On this _____ day of _____, 20___, before me personally appeared _____, to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that such person executed it as such person's free act and deed.

_____
Signature and Seal of Notary Public

My commission expires:_____
[Acts 1991, ch. 154, § 1; Acts 1993, ch. 320, § 4.]

6-1-210. Ratification and validation of prior adoptions. (a) The adoption, heretofore accomplished, of chapters 1 and 2 of this title, before June 30, 1991, by any territory or municipality is hereby ratified and validated in all respects. No flaw or defect or failure to comply with any technical requirement of incorporation shall invalidate any ordinance passed by any municipality incorporating under chapters 1-4 of this title, after June 30, 1991.

(b) Notwithstanding any provision of this chapter or any other law to the contrary,

IF the registered voters of any unincorporated territory approved a mayor-aldermanic charter and elected municipal officials, acting pursuant to this chapter on or before December 31, 1999; AND

IF from the election of such officials until April 26, 2001, the territory has continuously functioned as a mayor-aldermanic municipality; AND

IF the territory, between the date of such election and April 26, 2001, received and expended state funding allocated for municipalities; THEN

The adoption of such charter, the incorporation of such territory as a mayor-aldermanic municipality and the election of such officials are hereby ratified and validated in all respects; and no flaw or defect or failure to comply with any requirement of incorporation, set forth in § 6-1-201(b), shall invalidate the territory's status as an incorporated municipality or invalidate any ordinance passed by the board. [Acts 1991, ch. 154, § 1; Acts 2001, ch. 129, § 1.]

6-1-211. Elections informalities; validation. No informalities in conducting any election held under this chapter shall invalidate it if the election is conducted fairly and in substantial conformity with the requirements of this chapter and the general election law. [Acts 1991, ch. 154, § 1.]

6-1-212--6-1-218. [Repealed.]

6-1-219. Unconstitutional.

6-1-220. Municipal incorporation; tax revenues. (a) Notwithstanding any provisions of law to the contrary, whenever a new municipality incorporates under any form of charter, the county or counties in which the new municipality is located shall continue to receive the revenue from all state and local taxes distributed on the basis of situs of collection, generated within the newly incorporated area, until July 1 following the incorporation, unless the incorporation takes effect on July 1.

(b) If the incorporation takes effect on July 1, then the municipality shall begin receiving revenue from such taxes generated within its corporate boundaries for the period beginning July 1.

(c) Whenever a municipality incorporates, the municipality shall notify the department of revenue of such incorporation prior to the incorporation becoming effective for the purpose of tax administration.

(d) Such taxes shall include the local sales tax authorized in § 67-6-103, the income tax on dividends authorized in § 67-2-102, and all other such taxes distributed to counties and municipalities based on the situs of their collection. [Acts 1998, ch. 651, § 1.]

PART 3 -- SURRENDER

6-1-301. Elections. (a) After the adoption of this charter and the election of the first board of mayor and aldermen, no election for the surrender of this charter shall be called or held for a period of four (4) years from the date the first board takes office.

(b) After the expiration of the four-year period, an election to surrender the charter may be held. In order for a surrender election to be held, a petition requesting surrender of the charter must be filed in the same manner and contain the signatures of the same number of registered voters as provided for the adoption of this charter. The petition must pray for a surrender of the charter and must be accompanied by a cash bond to be posted by the petitioners to cover the cost of the election. In case of a failure to surrender the charter, future elections to surrender it shall not be held more frequently than at four-year intervals. [Acts 1991, ch. 154, § 1.]

6-1-302. Commission duties. The county election commission has the same duties with respect to an election for the surrender of a charter as it has with respect to an election to adopt a charter under this title. [Acts 1991, ch. 154, § 1.]

6-1-303. Termination. If a majority of the votes cast in the election favor the termination of this form of government, the provisions of this charter shall terminate at one (1) minute after midnight (12:01 a.m.) on the sixtieth day next following the date of the election, unless this falls upon Sunday or a holiday, in which case it shall terminate at one (1) minute after midnight (12:01 a.m.) on the next day. If, before the adoption of this charter, the municipality functioned under a different charter, then upon termination of this charter the prior charter shall become effective at the time provided for in this section. Territory previously unincorporated shall revert to that status. Another charter, however, may be adopted, and the question of whether or not another charter shall be adopted may be placed on the ballots used in the election mentioned in this section, if the petition filed requests that, and if all other necessary legal steps to adopt the other charter have been taken. [Acts 1991, ch. 154, § 1.]

6-1-304. Elections following surrender. (a) If there was a previously incorporated municipality or if a new charter is adopted as provided in § 6-1-303, the county election commission shall call an election not more than sixty-two (62) days following the election for surrender of this charter, at which time municipal officials for the newly adopted form of government shall be chosen who shall take office immediately after the election.

(b) The previous board shall hold over until the newly elected officers take office.

(c) The qualifying deadline for filing nominating petitions shall be as described in § 2-5-101.

(d) All registered voters of the municipality may vote in the election. [Acts 1991, ch. 154, § 1.]

6-1-305. Post-surrender assets and liabilities; succession. (a) In case of a reversion to a former charter or adoption of a new one simultaneously with the surrender of the old, all assets, liabilities and obligations of the old municipality shall become those of the new municipality.

(b) In the event a municipality reverts to unincorporated status, the board of mayor and aldermen shall become trustees of the property and funds of the former municipality, and, under such bonds as may be required by the county legislative body, shall proceed to terminate the affairs of the municipality and dispose of its property. [Acts 1991, ch. 154, § 1.]

6-1-306. Surplus property and funds; taxes to meet deficit; termination of affairs. (a) If the property and funds are more than sufficient to meet the municipality's obligations, the surplus shall be paid into the treasury of the county to become a part of its general fund.

(b) If the property and funds are insufficient to meet all the municipality's current obligations, the county legislative body may levy and collect taxes upon the property within the boundaries of the former municipality and pay the revenue to the trustees for the purpose of meeting the current deficit.

(c) The trustees shall terminate the affairs of the municipality as soon as possible, but in no event shall the trusteeship continue for more than thirty-six (36) months. Any matters, including obligations maturing after thirty-six (36) months, not disposed of within the thirty-six-month period shall become the responsibility of the county legislative body of the county in which the municipality is located. [Acts 1991, ch. 154, § 1.]

PART 4 -- OFFICERS

6-1-401--6-1-406. [Repealed.]

PART 5--NAME CHANGE OF MUNICIPALITY

6-1-501. Municipal charter amendment. A municipality may amend this charter for the sole purpose of changing the corporate name of the municipality, including the municipality's designation as a town or city in the manner provided in § 6-1-502. [Acts 2000, ch. 702, § 1.]

6-1-502. Resolution; publication; effective date; election. The corporate name of a municipality may be changed only in the following manner:

(1) The proposed name change must be approved by resolution by a vote of not less than two thirds (2/3) of the board in the manner provided for ordinances in § 6-2-102.

(2) If approved by the board, the resolution shall be published in a newspaper of general circulation in the municipality within fourteen (14) days of final approval by the board or the first available opportunity for publication, whichever is sooner. Such resolution shall become operative sixty (60) days after its adoption by the board unless ten percent (10%) of the qualified electors of the municipality sign a petition and present it to the board during such sixty-day period requesting that the resolution be referred to the electors, in which case it must receive the approval of a majority of the electors voting thereon at an election held as provided in subdivision (3). If such a petition is not received within such sixty-day period, the resolution shall become operative at the end of such sixty-day period and the mayor shall file a copy of the resolution indicating the new corporate name of the municipality with the secretary of state;

(3) Upon receipt of a petition filed in the manner provided in subdivision (2), a certified copy of the resolution shall be sent to the county election commission, which shall place the question whether to approve the resolution on the ballot of the next scheduled municipal election or general election at which members of the general assembly are chosen, whichever is sooner. The ballot shall provide options to vote "FOR" or "AGAINST" the resolution. The qualifications for voting shall be the same as otherwise provided in § 6-1-204 in the election to adopt the original charter under this chapter;

(4) If the majority vote is for the resolution, it shall be deemed to be operative on the date that the county election commission makes its official canvas of the election returns. The county election commission shall then promptly certify the results of the election to the secretary of state and the new corporate name of the municipality; and

(5) If the majority vote is against the election, the question of approving the resolution shall not be included on any subsequent election ballot unless a new resolution is first approved by the board in the manner provided in this section. [Acts 2000, ch. 702, § 1.]

6-1-503. <u>Effect on municipal obligations and liabilities</u>. Any change in the name of any municipality under this part shall have no effect whatever on any obligations or liabilities of the municipality, in contract, tort, or otherwise, all of which shall remain the same as prior to the name change. [Acts 2000, ch. 702, § 1.]

CHAPTER 2

POWERS OF MUNICIPALITIES WITH MAYOR-ALDERMANIC CHARTER

PART 1 -- ORDINANCES

SECTION

6-2-101. Publication.
6-2-102. Consideration and passage.
6-2-103. Annual operating budget; comparisons; publication.
6-2-104. [Repealed.]
6-2-105. Prior ordinances; ratification and confirmation.

PART 2 -- MUNICIPAL AUTHORITY GENERALLY

6-2-201. Powers.
6-2-202--6-2-204. [Repealed.]

PART 3 -- EXPENDITURES AND TAXATION

6-2-301--6-2-308. [Repealed.]

PART 4 -- OFFICERS

6-2-401--6-2-404. [Repealed.]

PART 5 -- ABOLITION OF CHARTER

6-2-501--6-2-506. [Transferred.]

PART 1 -- ORDINANCES

6-2-101. Publication. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. [Acts 1991, ch. 154, § 1.]

6-2-102. Consideration and passage. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted in one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. [Acts 1991, ch. 154, § 1; Acts 1998, ch. 621, § 1.]

6-2-103. Annual operating budget; comparisons; publication.

(a) Notwithstanding the provisions of any other law to the contrary, the governing body shall publish the annual operating budget and budgetary comparisons of the proposed budget with the prior year's actual figures and the current year's estimated figures, which information shall include the following:

(1) Revenues and expenditures for the following governmental funds: general, streets/public works, general purpose school and debt service;

(2) Revenues for each fund shall be listed separately by local taxes, state of Tennessee, federal government and other sources;

(3) Expenditures for each fund shall be listed separately by salaries and other costs;

(4) Beginning and ending fund balances shall be shown for each fund; and

(5) The number of full-time equivalent employee positions shall be shown for each fund.

(b) The publication shall be in a newspaper of general circulation and shall be published not less than ten (10) days prior to the meeting where the governing body will consider final passage of the budget. [Acts 1991, ch. 484, § 8; Acts 1992, ch. 760, § 2.]

6-2-104. [Repealed.]

6-2-105. Prior ordinances; ratification and confirmation. All ordinances adopted on or prior to June 30, 1991, are hereby ratified and confirmed. [Acts 1992, ch. 612, § 2.]

PART 2 -- MUNICIPAL AUTHORITY GENERALLY

6-2-201. Powers. Every municipality incorporated under this charter may:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for municipal purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner provided for in this section;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the municipality, upon the credit of the municipality or solely upon the credit of specific property owned by the municipality or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the municipality, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of title 29, chapter 16, or in any other manner provided by law;

(10) Take and hold property within or without the municipality or state upon trust, and administer trusts for the public benefit;

(11) Acquire, construct, own, operate and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility that is of service to the municipality, its inhabitants, or any part of the municipality, and further, may issue debt for these purposes under the Local Government Public Obligations Act, compiled in title 9, chapter 21;

(12) Grant to any person, firm, association or municipality, franchises for public utilities and public services to be furnished the municipality and those in the municipality. The power to grant franchises embraces the power to grant exclusive franchises. When an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period

of twenty-five (25) years or less, but not longer. The board may prescribe, in each grant of a franchise, the rates, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares that may be opened after the grant of the franchise;

(13) Make contracts with any person, firm, association or corporation for public utilities and public services to be furnished the municipality and those in the municipality. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each such contract entered into the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that may be opened after the grant of the contract;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services. Nothing in this subdivision (14) shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefor under §§ 7-31-107 -- 7-31-111 and 29-16-203, or any other manner provided by general laws;

(16) (A) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, title 7, chapters 32 and 33;

(B) Subdivision (16)(A) may not be construed to prohibit a municipality with a population of not less than seven hundred (700) nor more than seven hundred five (705), according to the 1990 federal census or any subsequent federal census, from installing and maintaining a traffic control signal within its corporate limits, and any such municipality is expressly so authorized; provided, that no device shall be installed to control traffic on a state highway without the approval of the commissioner of transportation;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removing, abolishing and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the board;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure and weigh any article for consumption or use within the municipality, and charge reasonable fees therefor, and provide standards of weights, tests and measures in such manner as may be provided pursuant to title 47, chapter 26, part 9;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures in accordance with general law, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and

require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27) Purchase or construct, maintain and establish a correctional facility for the confinement and detention of persons who violate laws within the corporate limits of the city, or to contract with the county to keep these persons in the correctional facility of the county and to enforce the payment of fines and costs in accordance with §§ 40-24-104 and 40-24-105 or through contempt proceedings in accordance with general law;

(28) (A) Enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent jurisdiction;

(B) Provide by ordinance for court costs as provided in the Municipal Court Reform Act, compiled in title 16, chapter 18, part 3;

(29) Establish schools, to the extent authorized pursuant to general law, determine the necessary boards, officers and teachers required therefor, and fix their compensation, purchase or otherwise acquire land for or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings and do all other acts necessary to establish, maintain and operate a complete educational system within the municipality;

(30) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

(31) Call elections as provided in this charter;

(32) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated; and

(33) Create a design review commission, which shall have the authority to develop general guidelines and to develop procedures for the approval of the guidelines for the exterior appearance of all nonresidential property, multiple family residential property, and any entrance to nonresidential developments within the municipality; provided, that the authority is subordinate to and in no way exceeds the authority delegated to a municipal planning commission pursuant to title 13, chapter 4. Any property owner affected by the guidelines may appeal a decision by the design review commission to the municipality's planning commission or, if there is no planning commission, to the entire municipal legislative body. [Acts 1991, ch. 154, § 1; Acts 1995, ch. 13, § 4; Acts 1998, ch. 621, § 2; Acts 1998, ch. 1126, § 1; Acts 2006, ch. 796, § 1; Acts 2011, ch. 453, § 1; Acts 2014, ch. 927, § 6.]

6-2-202--6-2-204. [Repealed.]

PART 3 -- EXPENDITURES AND TAXATION

6-2-301--6-2-308. [Repealed.]

PART 4 -- OFFICERS

6-2-401--6-2-404. [Repealed.]

PART 5 -- ABOLITION OF CHARTER

6-2-501--6-2-506. [Transferred.]

CHAPTER 3

BOARD OF MAYOR AND ALDERMEN

SECTION

6-3-101. Wards and aldermen; increases and reduction in number; terms.
6-3-102. Municipalities incorporating on or before June 30th, 1991; wards and aldermen; number and terms.
6-3-103. Residency.
6-3-104. Elections; dates.
6-3-105. Oaths of office.
6-3-106. Mayor, duties.
6-3-107. Vice mayor.
6-3-108. Board; election of alderman.
6-3-109. Compensation.
6-3-110. Term limits.

6-3-101. Wards and aldermen; increases and reductions in number; terms. (a) Any municipality incorporating under this charter after June 30, 1991, shall have at least one (1) ward but not more than eight (8) wards. Any municipality having a population of less than five thousand (5,000) shall, upon incorporation, have one (1) ward, and its board shall consist of a mayor and two (2) aldermen elected at large. Any municipality having a population of more than five thousand (5,000) shall, upon incorporation, have two (2) wards, and its board shall consist of a mayor to be elected at large and two (2) aldermen elected from each ward. The mayor and aldermen elected to the first board shall serve the four-year and two-year terms prescribed by § 6-1-207(b). At each election thereafter the mayor and aldermen shall be elected to four-year terms, except in transitional elections prescribed by subsection (c). Any municipality that incorporated under this charter after June 30, 1991, and that has a population of less than five thousand (5,000) and has only one (1) ward, may by ordinance increase the number of aldermen to a maximum of four (4) without increasing the number of wards. The ordinance shall provide for staggered four-year terms in accordance with § 6-1-207(b), but may provide for transitional terms of less than four (4) years.

(b) (1) Any municipality incorporated after June 30, 1991, may increase or reduce the number of wards, except that municipalities having a population of more than five thousand (5,000) shall not reduce the number of wards below two (2). The board of any municipality having between one (1) and four (4) wards shall consist of a mayor elected at large and two (2) aldermen elected from each ward, except that municipalities having more than one (1) ward may reduce the number of aldermen from each ward from two (2) to one (1). The board of any

municipality having between five (5) and eight (8) wards shall consist of a mayor elected at large and one (1) alderman elected from each ward. In wards having more than one (1) alderman, the aldermen shall serve staggered terms of office within their wards.

(2) Any municipality that has only one (1) ward may provide by ordinance for numerical designations for aldermanic positions. After numerical positions have been designated, candidates for alderman shall qualify by indicating on the qualifying petition the position the candidate is seeking. Ballots shall indicate the position to be filled by the selection of candidates listed under "Alderman, position 1," "Alderman, position 2," and so on. Any qualified person residing in the municipality may seek an open aldermanic position, but may qualify in any election for only one (1) position.

(c) All increases and reductions in the number of wards and aldermen under this section shall be accomplished only by ordinance passed by a two-third (2/3) vote of the entire membership to which the board is entitled. The ordinance shall:

(1) Take effect at the next municipal election, but shall not affect the present terms of members of the board of mayor and aldermen;

(2) Where appropriate, establish and describe the new ward boundaries;

(3) Provide for a transitional election following the adoption of the ordinance in which the mayor or aldermen, or both, running for office shall be elected for terms that will expire at the next municipal election;

(4) At the second municipal election following the adoption of the ordinance provide for a system of staggered terms of office under which the mayor is elected for a term of four (4) years, in cities with an even number of wards one half (1/2) the total number of mayor and aldermen running for office are elected to four-year terms, in cities with an uneven number of wards one (1) more or one (1) less than one half (1/2) the total number of mayor and aldermen running for office, are elected to four-year terms, in both classes of cities the remaining aldermen are elected to two-year terms, and following which all aldermen shall be elected for four-year terms; and

(5) In the case of a ward that has been abolished, provide that any alderman whose term extends past the life of a ward shall serve as an alderman at large for the remainder of the term. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, §§ 3, 4; Acts 1996, ch. 652, § 1; Acts 1997, ch. 77, § 1; Acts 2003, ch. 261, § 1.]

6-3-102. <u>Municipalities incorporating on or before June 30th, 1991; wards and aldermen; number and terms</u>. (a) (1) A municipality incorporated under chapters 1 and 2 of this title, on or before June 30, 1991, may, by ordinance, establish wards, increase or decrease the

number of wards, increase or decrease the number of aldermen to no fewer than two (2) and no more than eight (8) in accordance with § 6-3-101.

(2) Any municipality that has only one (1) ward may provide by ordinance for numerical designations for aldermanic positions. After numerical positions have been designated, candidates for alderman shall qualify by indicating on the qualifying petition the position the candidate is seeking. Ballots shall indicate the position to be filled by the selection of candidates listed under "Alderman, position 1," "Alderman, position 2," and so on. Any qualified person residing in the municipality may seek an open aldermanic position, but may qualify in any election for only one (1) position.

(b) (1) A municipality whose board has staggered two-year terms may by ordinance change to staggered four-year terms. The ordinance, which shall take effect for the next municipal election and shall not affect the present terms of members of the board of mayor and aldermen, shall provide for the transitional election of some members of the board for three-year terms. After this initial election, all members of the board shall be elected for four-year terms.

(2) A municipality whose board has nonstaggered two-year terms may by ordinance change to staggered four-year terms. The ordinance, which shall take effect for the next municipal election and shall not affect the present terms of members of the board, shall provide for the transitional election of some members of the board for two-year terms. After this initial election, all members of the board shall be elected for four-year terms.

(3) A municipality whose board has nonstaggered four-year terms may by ordinance change to staggered four-year terms. The ordinance, which shall take effect for the next municipal election and shall not affect the present terms of members of the board, shall provide for the transitional election of some members of the board for either two-year or six-year terms. After this initial election, all members of the board shall be elected for four-year terms.

(4) A municipality whose board has staggered two-year terms may, by ordinance, change to nonstaggered two-year terms. The ordinance, which shall take effect for the next municipal election and shall not affect the present terms of members of the board of mayor and aldermen, shall provide that the members elected at the next election will serve transitional terms of three (3) years. After such election, all members of the board shall be elected to serve two-year terms.

(5) A municipality whose board has non-staggered or staggered four-year terms may, by ordinance, change to two-year non-staggered or staggered terms. The ordinance shall not affect the present terms of members of the board serving four-year terms, and shall take effect for

the next appropriate municipal election following the adoption of the ordinance. After such election, all members of the board shall be elected to serve two-year terms.

(6) A municipality whose board has nonstaggered two-year terms may by ordinance change to nonstaggered four-year terms. The ordinance shall take effect for the next municipal election and shall not affect the present terms of members of the board.

(c) (1) Notwithstanding any provision of this chapter to the contrary, any municipality incorporated under this charter that is located within two (2) counties and has a population of not less than one thousand four hundred fifty (1,450) nor more than one thousand four hundred seventy-five (1,475), according to the 1990 federal census or any subsequent federal census, may by ordinance provide for the election of its mayor to a four-year term and the election of its aldermen to staggered four-year terms beginning with municipal elections that are conducted after January 1, 2001.

(2) Nothing in subdivision (c)(1) shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, §§ 5, 6, 7; Acts 1994, ch. 574, § 1, § 2; Acts 1998, ch. 691, § 1; Acts 1998, ch. 954, §§ 1, 2; Acts 2000, ch. 613, §§ 1; Acts 2003, ch. 261, § 2; Acts 2007, ch. 90, § 1]

6-3-103. <u>Residency</u>. (a) No person shall be eligible for the office of mayor unless such person has resided within the municipality for at least one (1) year next preceding the election.

(b) No person shall be eligible for the office of alderman unless such person has resided within the ward for at least one (1) year next preceding the election.

(c) Residence within any area annexed in a year preceding an election shall be counted in meeting the residence requirement of this section.

(d) Any officer moving from such officer's ward, in the case of an alderman, or moving from the municipality, in the case of the mayor, during the term of office shall be presumed to have vacated the office, and it shall be declared vacant, and filled as provided in § 6-3-107. [Acts 1991, ch. 154, § 1.]

6-3-104. <u>Elections; dates</u>. (a) The board may by ordinance change the date of municipal elections to coincide with the August or November general election. The ordinance changing the election date shall provide for the extension of the terms of members of the board necessary to meet the election date, but no term may be extended for more than two (2) years beyond its regular expiration date.

(b) Nothing in subsection (a) shall be construed to remove any incumbent from office or abridge the term of any incumbent prior to the end of the term for which an elected official was selected.

(c) If the board changes the date of municipal elections pursuant to subsection (a), the board may at a later date change the election date back to what such date was prior to moving the election date to coincide with the August or November general election. The board may only make an election date change under this subsection (c) one (1) time. Terms of incumbent members of the board shall not be abridged to accomplish an election date change under this subsection (c); however, members elected at a date change pursuant to this subsection (c) may take office at a later date so as to not abridge terms of incumbent members. If such members take office at a later date, their term may be abridged due to such members having to take office at the later date. [Acts 1991, ch. 154, § 1; 2010, ch. 1008, § 1.]

6-3-105. Oaths of office. The mayor, after the mayor's election, shall take an oath of office to support the constitution of the state and faithfully discharge the duties of the mayor's office, before any officer authorized to administer oaths. This officer or the mayor shall then induct the aldermen into office by administering to them a similar oath of office. Oaths of office shall be filed in the archives of the municipality. [Acts 1991, ch. 154, § 1.]

6-3-106. Mayor, duties. (a) The mayor:

(1) Shall be the chief executive officer of the municipality and shall preside at meetings of the board;

(2) Shall communicate any information needed, and recommend measures the mayor deems expedient to the board;

(3) (A) Shall make temporary appointments of any officer or department head as those terms are defined in § 6-1-101, except that of alderman, arising from the absence, sickness or disability of any such officer or department head, and shall report such appointment to the board at its next regular meeting;

(B) The board may confirm or reject the mayor's temporary appointments, or, at its discretion, make its own temporary appointments. The board shall make appointments to fill vacancies in office;

(4) (A) May call special meetings of the board upon adequate notice to the board and adequate public notice;

(B) Shall state the matters to be considered at the special meeting and the action of the board shall be limited to those matters submitted;

(5) Shall countersign checks and drafts drawn upon the treasury by the treasurer and sign all contracts to which the municipality is a party;

(6) As a member of the board, may make motions and shall have a vote on all matters coming before the board; and

(7) Shall make appointments to boards and commissions as authorized by law.

(b) Unless otherwise designated by the board by ordinance, the mayor shall perform the following duties or may designate a department head or department heads to perform any of the following duties:

(1) Those duties set forth in § 6-4-101, if the board does not appoint a city administrator, or if someone else is not designated by the board to perform those duties;

(2) (A) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the board;

(B) Nothing in this charter shall be construed as granting a property interest to employees or department heads in their continued employment;

(3) Act as purchasing agent for the municipality in the purchase of all materials, supplies and equipment for the proper conduct of the municipality's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the board;

(4) Prepare and submit the annual budget and capital program to the board for their adoption by ordinance; and

(5) Such other duties as may be designated or required by the board. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, § 8; Acts 1997, ch. 27, §§ 1, 3.]

6-3-107. <u>Vice mayor</u>. (a) The board shall elect an alderman to the office of vice mayor, who shall serve as mayor when the mayor is absent or unable to discharge the duties of the mayor's office, and, in case of a vacancy in the office of mayor, until the next regular municipal election.

(b) (1) By affirmative vote of a majority of the remaining members, the board shall fill a vacancy in the office of alderman for the unexpired term, but any portion of an unexpired four-year term for alderman or mayor that remains beyond the next municipal election shall be filled by the voters at that election, if the vacancy occurs at least twenty (20) days before the latest time for filing nominating petitions for candidates in that election.

(2) All such elections by the board shall be made by voice vote, on the calling of the roll. If a tie vote occurs in filling a vacancy on the board, the presiding officer shall vote a second time to break the tie. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, § 9.]

6-3-108. <u>Board; election of alderman</u>. In the absence of the mayor and vice mayor, the board may elect an alderman to act as presiding officer. [Acts 1991, ch. 154, § 1; Acts 1997, ch. 27, § 2.]

6-3-109. <u>Compensation</u>. (a) The compensation of all officers shall be established in the ordinance adopting the annual budget and capital program.

(b) The compensation of the mayor may not be diminished during the mayor's term of office. [Acts 1991, ch. 154, § 1.]

6-3-110. <u>Term limits</u>. (a) Subject to the further provisions of this section, the board of mayor and aldermen of any municipality incorporated under this charter which is located within a county that has adopted a charter form of government is authorized upon its own initiative and upon the adoption of an ordinance by a two-thirds (2/3) vote at two (2) separate meetings to establish term limits for the mayor and board of mayor and aldermen of such municipality in such manner as shall be designated by the ordinance. The operation of the ordinance shall be subject to approval of the voters as required in subsection (b).

(b) (1) Any ordinance to establish term limits for the mayor and board of mayor and alderman of any municipality to which subsection (a) applies shall not become operative until approved in an election herein provided in the municipality. Upon the adoption of the ordinance, the mayor shall notify the county election commission to hold an election as provided in this subsection (b).

(2) After the receipt of a certified copy of such ordinance, the county election commission shall hold an election on the question pursuant to § 2-3-204, providing options to vote "FOR" or "AGAINST" the ordinance, and a majority vote of those voting in the election shall determine whether the ordinance is to be operative.

(3) If the majority vote is for the ordinance, it shall be deemed to be operative on the date that the county election commission makes its official canvass of the election returns; provided, however, that no term limits shall apply until the election of the mayor and board of mayor and aldermen held after the ordinance is operative.

(4) If the majority vote is against the ordinance, no further elections on the question of term limits shall be held until at least four (4) years have expired from the previous election and only after the board of mayor and aldermen adopts a new ordinance for such purposes in accordance with subsection (a). [Acts 2010, ch. 999, § 1.]

CHAPTER 4

OFFICERS AND DEPARTMENT HEADS

PART 1 -- CITY ADMINISTRATOR

SECTION

6-4-101. Duties.

PART 2 -- CITY RECORDER

6-4-201. Appointment.
6-4-202. Board meetings; duties.
6-4-203. Records; custody and preservation.
6-4-204. Records; copying and certification.

PART 3 -- CITY JUDGE--CITY COURT

6-4-301. Jurisdiction; selection; qualifications.
6-4-302. Fines and penalties; enforcement.

PART 4 -- TREASURER--DEPOSITS OF MUNICIPAL FUNDS

6-4-401. Appointment; duties.
6-4-402. Depositories.

PART 1 -- CITY ADMINISTRATOR

6-4-101. Duties. (a) The board may appoint a city administrator who shall be under the control and direction of the board. The city administrator shall report and be responsible to the board.

(b) The board may, by ordinance, require the city administrator to perform any or all the following duties:

(1) Administer the business of the municipality;

(2) Make recommendations to the board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the municipality;

(3) Keep the board fully advised as to the conditions and needs of the municipality;

(4) Report to the board the condition of all property, real and personal, owned by the municipality and recommend repairs or replacements as needed;

(5) Recommend to the board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the municipality;

(6) Recommend specific personnel positions, as may be required for the needs and operations of the municipality, and propose personnel policies and procedures for approval of the board; and

(7) Perform such other duties as may from time to time be designated or required by the board. [Acts 1991, ch. 154, § 1.]

PART 2 -- CITY RECORDER

6-4-201. **Appointment**. The board shall appoint a city recorder, who also may be appointed to the positions of finance director or treasurer, or both. [Acts 1991, ch. 154, § 1.]

6-4-202. **Board meetings; duties**. The recorder or the recorder's designee shall be present at all meetings of the board, and keep a full and accurate record of all business transacted by the board to be preserved in permanent form. [Acts 1991, ch. 154, § 1.]

6-4-203. **Records; custody and preservation**. (a) The recorder or the recorder's designee shall have custody of, and preserve in the recorder's office, the city seal, the public records, original rolls of ordinance, ordinance books, minutes of the board, contracts, bonds, title deeds, certificates, and papers, all official indemnity or security bonds, except the recorder's bond, which shall be in the custody of the mayor, and all other bonds, oaths and affirmations and all other records, papers and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate and modern index of such material.

(b) All such records shall be the property of the municipality. [Acts 1991, ch. 154, § 1.]

6-4-204. **Records; copying and certification**. (a) The recorder shall provide, copy, and, when required by any officer or person, certify copies of records, papers and documents in the recorder's office.

(b) Fees for copying and certification shall be charged as established by ordinance. [Acts 1991, ch. 154, § 1.]

PART 3 -- CITY JUDGE--CITY COURT

6-4-301. Jurisdiction; selection; qualifications. (a) There shall be a city court presided over by a city judge appointed by the board or elected as provided in subsection (c).

(b) (1) (A) Where the city judge is appointed, the city judge shall have the qualifications, term of office, if any, and receive the compensation the board may provide by ordinance.

(B) The board may appoint the general sessions court judge of the county or counties in which the municipality lies to act as city judge to the extent the general sessions court judge agrees to act as city judge.

(2) In the absence or disability of the city judge, the mayor may designate a qualified person to serve as city judge or, to the extent the general sessions court judge agrees to serve as city judge, may designate the general sessions court judge of the county or counties in which the municipality lies to be acting city judge until one can be appointed at the next regularly scheduled meeting of the board, or as otherwise provided by ordinance.

(c) (1) The board may require, by ordinance, that the city judge meet the constitutional qualifications and be elected in the same manner as a judge of an inferior court. Constitutional provisions applicable to judges of inferior courts shall apply to the elected city judge.

(2) If an elected city judge is temporarily unable to preside over the city court for any reason, then, to the extent a general sessions court judge agrees to serve temporarily as city judge, the judge shall appoint a general sessions judge of the county or counties within which the municipality lies to sit in the judge's place. If no general sessions judge is available, then the city judge shall appoint an attorney, meeting the same qualifications as a general sessions judge, to sit temporarily. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, § 10; Acts 1996, ch. 652, §§ 2, 3; Acts 2004, ch. 914, § 6; Acts 2011, ch. 453, §§ 2, 4.]

6-4-302. Fines and penalties; enforcement. (a) The city judge may impose fines, costs and forfeitures, and punish by fine for violation of city ordinances.

(b) The judge may preserve and enforce order in the court and enforce the collection of all fines, costs and forfeitures imposed.

(c) (1) In default of payment, or good and sufficient security given for the payment of any fines or forfeitures imposed, if:

(A) The court has concurrent jurisdiction with the general sessions court, the judge is authorized to enter an order in accordance with § 40-24-104 which, in accordance with such section, may include imprisonment until the fine, or any portion of

it, is paid. No such imprisonment shall exceed the period of time established in § 40-24-104, for any one (1) offense or violation;

(B) The court does not have concurrent jurisdiction with the general sessions court, the judge is authorized to enter an order for contempt of court for the payment of the fine in the amount established pursuant § 16-18-306.

(2) Fines may be paid in installments in the manner provided by ordinance or in accordance with § 40-24-104. Any court is authorized to enforce the collection of unpaid fines or forfeitures as a judgment in a civil action in any court with competent jurisdiction in accordance with § 40-24-105. The city judge may remit, with or without condition, fines and costs imposed for violation of any ordinance provision. [Acts 1991, ch. 154, § 1; Acts 1995, ch. 13, § 5; Acts 2011, ch. 453, § 5.]

PART 4 -- TREASURER--DEPOSITS OF MUNICIPAL FUNDS

6-4-401. Appointment; duties. (a) The board shall appoint a treasurer.

(b) The treasurer shall collect, receive and receipt for the taxes and all other revenue and bonds of the municipality, and the proceeds of its bond issues, and disburse them.

(c) The board may appoint the recorder as treasurer. [Acts 1991, ch. 154, § 1.]

6-4-402. Depositories. Depositories of the municipal funds shall be designated by ordinance. The board shall require any financial institution that becomes a depository of municipal funds to secure such funds by collateral in the same manner and under the same conditions as state deposits under title 9, chapter 4, parts 1 and 4, or as provided in a collateral pool created under title 9, chapter 4, part 5. [Acts 1991, ch. 154, § 1; Acts 1994, ch. 752, § 4.]

CHAPTERS 5-17

[Reserved.]

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CITY ADMINISTRATOR.
5. WARDS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN

SECTION

1-101. Time and place of regular meetings.
1-102. Order of business.
1-103. Citizen's forum.
1-104. General rules of order.
1-105. Dates of elections.
1-106. Salary of aldermen.
1-107. Addressing employment, promotion, discipline, suspension and discharge of specific employees at public meetings.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M. on the first Tuesday of each month at the city hall. If the regular meeting date falls on a holiday or for other valid reasons, the meeting date may be changed with adequate public notice. (1994 Code, § 1-101, as replaced by Ord. #2018-02, March 2018 ***Ch3_9-3-19***, and Ord. #2018-27, Jan. 2019 ***Ch3_9-3-19***)

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[1]Charter references
See the charter index, the charter itself and footnote references to the charter in the front of this code.
Municipal code references
Building, plumbing, electrical and gas inspectors: title 12.
Utilities: title 18.
Wastewater treatment: title 18.
Zoning: title 14.

1-102. Order of business. At each regular meeting of the board of mayor and aldermen, the following order of business shall be observed unless dispensed with by the mayor with no objections of the members present:

(1) Call to order by the mayor.
(2) Determination of quorum.
(3) Approval of minutes.
(4) Presentations.
(5) Department reports.
(6) Old business.
(7) Consent agenda.
(8) New business.
(9) Mayor/aldermen comments.
(10) Adjournment. (Ord. #2006-17, Dec. 2006, as replaced by Ord. #2018-03, March 2018 ***Ch3_9-3-19***)

1-103. Citizen's forum. A public citizen's forum shall be conducted during the regular monthly workshop meeting of the board of mayor and aldermen beginning at 6:30 P.M. and before the regular monthly meeting of the board of mayor and aldermen beginning at 6:45 P.M. Any person wishing to address the board shall make such request by placing their name, address and the topic of their comments on a sign-in sheet provided for that purpose no later than fifteen (15) minutes prior to the beginning of the citizen's forum. Each person shall be allowed a maximum of three (3) minutes to speak during the comment period. The monthly citizen's forum will be recorded on a separate video recording and is not to be recorded on the official meeting audio or video recordings. The citizen's forum sessions may be televised on La Vergne channel 3. Minutes for the citizen's forum shall not be taken. The board of mayor and aldermen shall not be asked to answer any questions or asked to comment on the topic presented, but will take all topics presented under advisement. (1994 Code, § 1-103, as replaced by Ord. #2010-24, Jan. 2011, amended by Ord. #2014-25, Jan. 2015, and replaced by Ord. #2019-01, Feb. 2019 ***Ch3_9-3-19***)

1-104. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1994 Code, § 1-104, modified)

1-105. Dates of elections. Pursuant to the Tennessee Code Annotated, § 6-3-104, the date of the La Vergne city election is hereby set on the first Tuesday after the first Monday in November in each even calendar year. (1994 Code, § 1-105, as amended by Ord. #2005-16, Aug. 2005)

1-106. **Salary of aldermen**. The salary for each of the four aldermen shall be fixed initially at three thousand six hundred and no/100 dollars ($3,600.00) per year. (1994 Code, § 1-106)

1-107. **Addressing employment, promotion, discipline, suspension and discharge of specific employees at public meetings.** Given that it is the duty of the mayor, or his designee, to employ, promote, discipline, suspend and discharge all employees in accordance with the city's personnel policies and procedures, if any, adopted by the board of mayor and aldermen; and given that the board of mayor and aldermen has adopted personnel policies and procedures; therefore matters relating to the employment, promotion, discipline, suspension and discharge of specific employees, absent law or written agreement to the contrary, shall not be addressed during the regular meetings or workshops of the board of mayor and aldermen except as may be necessary to address an aspect of pending or threatened litigation that is placed on the meeting or workshop agenda. (as added by Ord. #2019-05, March 2019 ***Ch3_9-5-19***)

CHAPTER 2

MAYOR[1]

SECTION

1-201. Salary.
1-202. [Deleted.]

1-201. Salary. The salary for the mayor shall be fixed at fifteen thousand and no/100 dollars ($15,000.00) per year. (1994 Code, § 1-202)

1-202. [Deleted]. (Ord. #2008-7, May 2008, as deleted by Ord. #2010-28, March 2011)

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[1]Charter references

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

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

Ord. #89-8 states the term of office of the mayor shall be four (4) years.

CHAPTER 3

RECORDER[1]

SECTION

1-301. To perform general administrative duties.
1-302. To charge for copies of records, etc.

1-301. To perform general administrative duties. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the city which are not expressly assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. (1994 Code, § 1-302)

1-302. To charge for copies of records, etc. The recorder shall provide, when requested by any person, copies or certified copies of records, papers, and documents in his office, and charge therefor, for use of the city, the appropriate fee as listed by title 20, chapter 5. (1994 Code, § 1-303, as amended by Ord. #2005-32, Jan. 2006, modified)

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[1]Charter references
City recorder: § 6-4-201 et seq.
Recorder as treasurer: § 6-4-401(c).

CHAPTER 4

CITY ADMINISTRATOR

SECTION

1-401. Office created.
1-402. Powers and duties.
1-403. Compensation.

1-401. Office created. There is hereby created and established the position of city administrator. The city administrator shall be appointed by the board of mayor and aldermen (herein board) wholly on the basis of administrative ability and qualifications and shall hold office for and at the pleasure of the board. The city administrator shall devote full time to the duties of his/her office. (1994 Code, § 1-401, as replaced by Ord. #2010-28, March 2011)

1-402. Powers and duties. The city administrator shall act under the direction and control of and shall be responsible to the board and shall perform the following duties:

(1) Duties listed in Tennessee Code Annotated, § 6-4-101;

(2) Act as purchasing agent for the municipality in the purchase of all materials, supplies, and equipment for the proper conduct of the municipality's business, provided that all purchases shall be made in accordance with policies, practices, and procedures established by the board;

(3) Prepare and submit the annual budget and capital program to the board for their adoption by ordinance;

(4) Such other duties as may be designated or required by the board. (Ord. #2008-07, May 2008, as replaced by Ord. #2010-28, March 2011, and Ord. #2011-32, Jan. 2012)

1-403. Compensation. The city administrator shall receive such compensation as the board shall from time to time direct. (1994 Code, § 1-403)

CHAPTER 5

WARDS

SECTION

1-501. Wards of the city.

1-501. Wards of the city. The City of La Vergne shall consist of one ward and the number of aldermen under the newly adopted form of government for the City of La Vergne, said form being found in Tennessee Code Annotated, §§ 6-1-101 to 6-4-402, shall be four (4). (1994 Code, § 1-501)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. IN GENERAL.
2. PARKS AND RECREATION ADVISORY COMMITTEE.
3. SENIOR CITIZENS ADVISORY COMMITTEE.
4. GREENWAY ADVISORY COMMITTEE.
5. ECONOMIC DEVELOPMENT ADVISORY COMMITTEE.
6. LOCAL EMERGENCY PLANNING COMMITTEE.
7. HISTORICAL PRESERVATION ADVISORY COMMITTEE.
8. LA VERGNE LIBRARY BOARD.

CHAPTER 1

IN GENERAL

SECTION

2-101. Applicability.
2-102. Membership.
2-103. Appointment, terms of office and vacancies.
2-104. General administration.
2-105. Compensation.

2-101. Applicability. Unless specified otherwise, the following shall apply to the boards and committees located in this title.

2-102. Membership. Members shall be appointed from the general constituency without regard to location of such member's residence within the City of La Vergne to include, to the extent reasonably possible, the broadest representation of people involved with or interested in the various and diverse aspects of that board or committee, having backgrounds, experience, talents and expertise in the areas of responsibility for that board or committee that would be beneficial to the city. One (1) member shall be appointed from the board of mayor and aldermen. The alderman appointed shall serve as chairman of the board or committee.

2-103. Appointment, terms of office and vacancies. Members shall be appointed by the mayor and confirmed by the board of mayor and aldermen, and shall serve at the pleasure of the board. Members shall be appointed for a four (4) year term. Members shall be eligible for re-appointment. In case of any vacancies on the committee, vacancies shall be filled for the unexpired term. Members shall vacate their membership by resignation or by removal by the

board of mayor and aldermen. Members may be removed by the board of mayor and aldermen at the request of the chairman of the board or committee and the department head responsible for that board or committee, if the member is absent from two (2) or more scheduled meetings in a row. The alderman appointed to serve as chairman shall vacate the chairmanship by resignation, upon departure from the board of mayor and aldermen, or by removal by the board of mayor and aldermen. (as replaced by Ord. #2011-26, Oct. 2011)

2-104. General administration. (1) At its first meeting of each year, the board or committee shall elect a vice-chairman from among the members of the board or committee.

(2) It shall be the duty of the chairman to preside over all meetings of the board or committee. The vice-chairman shall preside at all meetings where the chairman is absent. A majority of the members of the board shall constitute a quorum for the transaction of business, and a majority vote of those present shall be necessary to carry any recommended action.

(3) The board or committee shall not have any authority over employees of the city, the city's budget or property of the city, but shall act solely as an advisory committee. The board or committee shall determine their own schedule for meetings, keeping of minutes, and other details of the board or committee's functions. The city administrator or his designee will provide the necessary staff support for work of the board or committee and shall act as the liaison to the city government on the behalf of the board or committee.

2-105. Compensation. The members of the board or committee shall serve without compensation, but may be reimbursed for reasonable and necessary expenses after approval by the city administrator.

CHAPTER 2

PARKS AND RECREATION ADVISORY COMMITTEE

SECTION

2-201. Creation and membership.
2-202. Duties of the committee.

2-201. Creation and membership. There shall be a Parks and Recreation Advisory Committee of the City of La Vergne (hereinafter referred to as "the committee") which shall serve as the advisory board of the parks and recreation program activities subject to the actions and policies of the board of mayor and aldermen.

The committee shall be constituted as a body of seven members. One member shall be appointed from each of the following general recreation constituencies without regard to the location of such member's residence within the City of La Vergne:

(1) Primary and elementary age children;
(2) Teen age children;
(3) Young and middle age adults; and
(4) Senior citizens.

Two members shall be appointed from the general constituency without regard to the location of such member's residence within the City of La Vergne. (1994 Code, § 2-201, modified)

2-202. Duties of the committee. The committee shall act as the advisory committee for future planning of recreation, ongoing programs, special events, and other matters related to leisure services for the citizens. The committee shall recommend needed maintenance and physical improvements as needed in parks and recreation. The committee shall also submit periodic reports to the governing board. (1994 Code, § 2-203)

CHAPTER 3

SENIOR CITIZENS ADVISORY COMMITTEE

SECTION

2-301. Creation and membership.
2-302. Duties of the committee.

2-301. Creation and membership. There shall be a Senior Citizens Advisory Committee of the City of La Vergne (hereinafter referred to as "the committee") which shall serve as the advisory board of the senior citizen program activities subject to the actions and policies of the board of mayor and aldermen.

The committee shall be constituted as a body of eleven members. Six (6) members shall be appointed from the following general constituencies: two (2) members shall be from the La Vergne Senior Citizens Club; one (1) member shall be either the Rutherford County Executive or a Rutherford County Commissioner; and three (3) members shall represent the community and/or industries of La Vergne. Four members (4) shall be appointed from the general constituency without regard to the location of such member's residence within the City of La Vergne. (1994 Code, § 2-301, modified)

2-302. Duties of the committee. The committee shall act as the advisory committee for future planning of the senior citizens, ongoing programs, special events, and other matters related to leisure services for the senior citizens. The committee shall recommend needed maintenance and physical improvements as needed for the senior citizen's building. The committee shall also submit periodic reports to the governing board. (1994 Code, § 2-303)

CHAPTER 4

GREENWAY ADVISORY COMMITTEE

SECTION

2-401. Creation and membership.
2-402. Duties of committee.

2-401. Creation and membership. There shall be a Greenway Advisory Committee of the City of La Vergne (hereinafter referred to as "the committee") which shall serve as the advisory board for the greenway program subject to the actions and policies of the board of mayor and aldermen.

The committee shall be constituted as a body of seven (7) members from the general constituency without regard to the location of such member's residence within the City of La Vergne. (1994 Code, § 2-401, modified)

2-402. Duties of the committee. The committee shall act as the advisory committee for future planning of the greenway projects, ongoing programs, special events, and other matters related to the greenway system. The committee shall recommend needed maintenance and physical improvements as needed for the greenway program. The committee shall also submit periodic reports to the governing board. (1994 Code, § 2-403)

CHAPTER 5

ECONOMIC DEVELOPMENT ADVISORY COMMITTEE

SECTION

2-501. Creation and membership.
2-502. Role of the advisory committee.

2-501. Creation and membership. There is created an advisory board to be known as "The Economic Development Advisory Committee of the City of La Vergne," (hereinafter referred to as "the committee") which shall serve as an advisory board, subject to the actions and policies of the board of mayor and aldermen.

One (1) member shall be appointed from the board of mayor and aldermen and six (6) members shall be appointed from the general constituency without regard to the location of such member's residence within the City of La Vergne or shall be an owner of a business located within the City of La Vergne. (1994 Code, § 2-501, modified, as replaced by Ord. #2011-12, June 2012, and Ord. #2016-17, Jan. 2017 ***Ch3_9-3-19***)

2-502. Role of the advisory committee. The economic development advisory committee is created to assist the board of mayor and aldermen and to advise the board in connection with issues and programs involving economic development which may include:

(1) Facilitate cooperation and coordination with various community groups and neighborhoods on economic development issues;

(2) Make recommendations to the board of mayor and aldermen and to city staff for programs in which the city could or should participate to enhance economic development opportunities in the city, which programs may be in cooperation with any appropriate private, public, civic or community agency, group or association of or in the city, county, state or federal government;

(3) Make recommendations to the board of mayor and aldermen regarding requests for financial incentives from prospective businesses. These incentives may include the reduction or elimination of impact fees, water tap fees and/or sewer tap fees.

(4) Recommend ways and means of obtaining private, local, county, state or federal funds and other participation for the promotion of economic development projects within the city;

(5) Work with City of La Vergne staff, committees and other city/community based groups, as directed by the board of mayor and aldermen, on economic issues and projects. (1994 Code, § 2-505)

CHAPTER 6

LOCAL EMERGENCY PLANNING COMMITTEE

SECTION

2-601. Creation and membership.
2-602. Role of the committee.

2-601. Creation and membership. There is created an advisory committee to be know as "The Local Emergency Planning Committee of the City of La Vergne," (hereinafter referred to as "the committee") which shall serve as an advisory committee, subject to the actions and policies of the board of mayor and aldermen.

There shall be twenty-two (22) members of the committee who shall be appointed by the mayor and confirmed by the board of mayor and aldermen, and who shall serve at the pleasure of the mayor and board. Two (2) members shall be appointed from the La Vergne Fire Department. Two (2) members shall be appointed from the La Vergne Police Department. Two (2) members shall be appointed from the La Vergne Rescue Squad. Two (2) members shall be appointed from the La Vergne Public Works Department. Two (2) members shall be appointed from Rutherford County Public Entities. One (1) member shall be appointed from the La Vergne Finance Department. One (1) member shall be appointed from the water treatment plant. One (1) member shall be the city administrator. One (1) member shall be an environmental specialist. One (1) member shall be appointed from Box 100. One (1) member shall be the La Vergne Fire Inspector. One (1) member shall be from the American Red Cross. One (1) member shall be the parks and recreation director. One (1) member shall be from the information technology department. One (1) member shall be from the stormwater department. One (1) member shall be from the Rutherford County Special Operations and Response Team. One (1) member shall be appointed by the mayor from the board of aldermen.

If the appointed member cannot attend a meeting or workshop, the agency or department may send a representative to act as a proxy in the appointed member's place. (1994 Code, § 2-601, as amended by Ord. #2006-8, July 2006, replaced by Ord. #2011-03, March 2011, Ord. #2011-08, May 2011, and Ord. #2012-09, June 2012, and amended by Ord. #2013-10, Sept. 2013, Ord. #2013-18, Nov. 2013, and Ord. #2015-02, March 2015)

2-602. Role of the committee. The committee is created to assist the board of mayor and aldermen and to advise the board in connection with issues and programs involving emergency services which may include:

(1) Development, implementation and evaluation of the city's emergency plan;

(2) Make recommendations for additional resources needed in an emergency;

(3) Complete a comprehensive emergency response plan that addresses the following:

(a) Identification of facilities used during evacuation situations.

(b) Methods and procedures for response.

(c) Recommend a community emergency coordinator if the mayor does not wish to serve in this position.

(d) Implementation of the incident commander system.

(e) Evacuation plans.

(f) Descriptions of emergency equipment and facilities in the community and a listing of persons responsible for the equipment and facilities.

(g) Procedures for public notification.

(h) Training programs.

(i) Responsible for pulling all emergency programs together for the betterment of the community.

(j) Work to establish more grants for emergency operations.

(4) Work with City of La Vergne staff, committees and other city/community based groups, as directed by the board of mayor and aldermen, on emergency management issues. (1994 Code, § 2-605)

CHAPTER 7

HISTORICAL PRESERVATION ADVISORY COMMITTEE

SECTION

2-701. Creation and membership.
2-702. Role of the committee.

2-701. Creation and membership. There is created an advisory committee to be known as the "Historical Preservation Advisory Committee of the City of La Vergne," (hereinafter referred to as "the committee") which shall serve as an advisory committee, subject to the actions and policies of the board of mayor and aldermen.

There shall be five (5) members of the committee appointed from the general constituency without regard to the location of such member's residence within the City of La Verge. (1994 Code, § 2-701, modified)

2-702. Role of the committee. The committee is created to assist the board of mayor and aldermen and to advise the board in connection with issues and programs involving the preservation of the city's history which may include:

(1) Facilitate cooperation and coordination with various community groups and neighborhoods on historic preservation issues;

(2) Make recommendations to the board of mayor and aldermen and to city staff for programs in which the city could or should participate to help preserve the city's past, which programs may be in cooperation with any appropriate private, public, civic or community agency, group or association of or in the city, county, state or federal government;

(3) Recommend ways and means of obtaining private, local, county, state or federal funds and other participation for the preservation of historical projects within the city;

(4) Work with City of La Vergne staff, committees and other city/community based groups, as directed by the board of mayor and aldermen, on historical preservation issues and projects. (1994 Code, § 2-705)

CHAPTER 8

LA VERGNE LIBRARY BOARD

SECTION

2-801. Library board established.
2-802. Appointment and tenure of members; filling of vacancies.
2-803. Removal from office and filling of vacancies therefrom.
2-804. Powers and duties.
2-805. Use of library.

2-801. Library board established. There is hereby established a library board which shall consist of seven (7) members, who shall serve without compensation. (Ord. #2009-30, Nov. 2009)

2-802. Appointment and tenure of members; filling of vacancies. Three (3) members of the library board shall be appointed by the board of mayor and aldermen for one (1) year terms, two (2) for two (2) year terms, and two (2) for three (3) year terms, and their successors for a term of three (3) years. Not more than one (1) member of the board of mayor and aldermen shall serve on this board. Not more than five (5) of the members shall be of the same sex. All members shall be residents of or employed by the City of La Vergne. Vacancies in the library board occurring otherwise than by normal expiration of a term shall be filled by the board of mayor and aldermen for the unexpired portion of the term. (Ord. #2009-30, Nov. 2009)

2-803. Removal from office and filling of vacancies therefrom. Members of the library board serve at the pleasure of the board of mayor and aldermen and may be removed from office by majority vote of the board of mayor and aldermen with or without cause. Members may be removed by the board of mayor and aldermen at the request of the chairman of the board or committee and the library director, if the member is absent from two (2) or more scheduled meetings in a row. (Ord. #2009-30, Nov. 2009, as replaced by Ord. #2011-26, Oct. 2011)

2-804. Powers and duties of library board. The members of the library board shall organize by electing officers and adopting bylaws and regulations. The board shall direct all the affairs of the library, including appointment of a librarian who shall direct the internal affairs of the library, and such assistants or employees as may be necessary. Such board may make and enforce rules and regulations and establish branches of travel service at its discretion. Such board may receive donations, devises and bequests to be used by it directly for library purposes. The library board shall furnish to the state library agency such statistics and information as may be required, and shall

make annual reports to the board of mayor and aldermen and any and all such other reports as required by law. Annually, the library board shall submit a budget in conformance with the charter and ordinances of the City of La Vergne to the city administrator who shall forward same to the board of mayor and aldermen. All city tax funds and appropriate fees for library purposes, whether raised by bonds or taxation, shall be held by the city treasurer or appropriate designee. Such funds may be disbursed when properly drawn upon by vouchers or requisitions. Proceeds from the sale of surplus books by the library may be credited to such special fund in the discretion of the library board. All library accounts of every character and kind shall be audited annually by or under the supervision and direction of the board of mayor and aldermen. (Ord. #2009-30, Nov. 2009)

2-805. **Use of library**. The La Vergne public library shall be free to the inhabitants and residents of the city; however, the board may, in its discretion, extend the privilege and facilities of the library to persons residing outside the city upon such terms as it may deem proper. The library board shall have power to make and enforce rules providing penalties for loss of or injury to library property. (Ord. #2009-30, Nov. 2009)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

1. MUNICIPAL COURT.
2. MUNICIPAL JUDGE.
3. COURT ADMINISTRATION.
4. WARRANTS AND SUBPOENAS.
5. BONDS AND APPEALS.
6. POLICE DEPARTMENT AND MUNICIPAL COURT FINES AND FEES.

CHAPTER 1

MUNICIPAL COURT

SECTION

3-101. Municipal court created; where and when to be held.

3-101. Municipal court created; where and when to be held. There is hereby created a municipal court for the City of La Vergne. The court shall be held at the city hall or at such other place within the city as the municipal judge may from time to time designate. The court shall be in session no less than one day per month at such hours as may be determined by the municipal judge and may be in session more frequently at such hours and at such places within the city as may be determined by the municipal judge. Court date is initially set for the 2nd, 3rd, and 4th Wednesday each month at 3:00 P.M. and thereafter any change in the schedule of hour, date, or place of session shall be published in a newspaper of general circulation within the city at least seven (7) days prior to the change in the date, hour, or place before becoming effective. (1994 Code, § 3-101)

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[1]Charter references
City Judge--City Court: § 6-4-301.

CHAPTER 2

MUNICIPAL JUDGE

SECTION

3-201. Office of municipal judge established.
3-202. Qualifications of judge.
3-203. Normal term of office for judge.
3-204. Oath of office for judge.
3-205. Compensation of judge.
3-206. Judicial jurisdiction of municipal judge.
3-207. Powers of judge.
3-208. Judge pro-tempore.

3-201. Office of municipal judge established. There is hereby established the office of municipal judge which shall be appointed by the Board of Mayor and Aldermen of the City of La Vergne. (1994 Code, § 3-201, modified)

3-202. Qualifications of judge. Any person appointed to the office of municipal judge shall be a licensed attorney entitled to practiced in the Courts of the State of Tennessee at time of appointment. Suspension or revocation of the person's license to practice law shall constitute an automatic termination of that person's appointment to office pursuant to this section and a vacancy in the office shall forthwith exist to be filled by appropriate appointment by the board of mayor and aldermen. (1994 Code, § 3-202)

3-203. Normal term of office for judge. The term of office for the municipal judge shall be at the pleasure of the board of mayor and aldermen and the municipal judge shall continue to serve until his successor has been appointed and sworn in. Vacancies in the office created hereby shall be filled by the board of mayor and aldermen. (1994 Code, § 3-203, modified)

3-204. Oath of office for judge. Any person appointed to the office of municipal judge shall, prior to entering upon the duties of the office, take the following oath.

> "I _____, solemnly swear to perform and discharge the duties and obligations of Municipal Judge of the City of La Vergne, and to enforce the ordinances of the City of La Vergne and the laws of the State of Tennessee without fear or favor, so help me God." (1994 Code, § 3-204)

3-205. Compensation of judge. The board of mayor and alderman shall prescribe by ordinance the compensation to be paid the municipal judge. All fees derived by the city court shall be paid into the treasury of the city and

are not to be considered a part of the compensation of the municipal judge. (1994 Code, § 3-206)

3-206. Judicial jurisdiction of municipal judge. The municipal judge shall have jurisdiction in and over all cases for the violation of and all cases arising under the laws and ordinances of the city. (1994 Code, § 3-207, modified)

3-207. Powers of judge. The municipal judge shall be subject to the provisions of law and the charter of the city governing the municipal court. The municipal judge may impose fines, costs, and forfeitures, and punish by fine for violation of city ordinances; preserve and enforce order in his court; enforce the collection of all fines, costs, and forfeitures imposed by him. Fines may be paid in installments in such manner as set by the municipal judge. Further, in addition to or in lieu of any portion of other penalty imposed, the municipal judge may require a person who violates any provision of the La Vergne Municipal Code pertaining to the operation, use, or control of a motor vehicle to attend a driver education course pursuant to the provisions of La Vergne Municipal Code § 15-1101, et seq. (1994 Code, § 3-208, modified, as replaced by Ord. #2019-07, April 2019 ***Ch3_9-3-19***)

3-208. Judge pro-tempore. The board of mayor and aldermen shall appoint a judge pro-tempore to act in the absence or disability of the municipal judge. (1994 Code, § 3-209)

CHAPTER 3

COURT ADMINISTRATION

SECTION

3-301. Municipal judge's docket.
3-302. Court clerk.
3-303. Service of court process.
3-304. Trial and disposition of cases.
3-305. Imposition and disposition of fines, payment and non-payment.
3-306. Court costs.
3-307. Contempt of court.
3-308. Disposition of weapons found on persons arrested.
3-309. Disposition of abandoned and confiscated property.
3-310. City litigation tax.
3-311. Collection agencies.
3-312. Electronic traffic citation regulations and fees.

3-301. Municipal judge's docket. The municipal judge shall keep or cause to be kept a complete court docket or dockets embodying complete detailed records of all cases handled by him. 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; and all other information which may be relevant. The docket shall also include the information required by Tennessee Code Annotated § 55-10-306 for all violations of traffic charges. (1994 Code, § 3-301)

3-302. Court clerk. The board of mayor and aldermen of the city may appoint a clerk of the municipal court. The salary of the clerk will be determined by the board of mayor and alderman. (1994 Code, § 3-302, modified)

3-303. Service of court process. The codes enforcement officer, any police officer of the city, the court clerk and any other person authorized by state statutes or by city ordinance, are each hereby appointed and designated as officers of the municipal court for the purpose of serving any process, documents, notices, warrant, writs, citations, and other official instruments of and from the municipal court. (1994 Code, § 3-303)

3-304. Trial and disposition of cases. Every person charged with violating a city ordinance within the city shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the municipal 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 in court. (1994 Code, § 3-304)

3-305. Imposition and disposition of fines, payment and non-payment. All fines, penalties, and costs shall be imposed and recorded by the municipal judge on the city court docket in open court. All fines imposed by the municipal judge for violations of city ordinances shall belong to and be paid into the treasury of the city. All payments shall be in accordance with Tennessee Code Annotated, § 40-24-101 through 40-24-105. (1994 Code, § 3-305, modified)

3-306. Court costs. In all cases heard and determined by him, the city judge shall impose court costs in the amount of ninety-one dollars, twenty-five cents ($91.25). One dollar ($1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. (as replaced by Ord. #2019-10, June 2019 ***Ch3_9-3-19***)

3-307. Contempt of court. Contempt of court is punishable by a fine of fifty dollars ($50.00), or such lesser amount as may be imposed in the judge's discretion.

3-308. Disposition of weapons found on persons arrested. All weapons as defined in § 11-603 of the city code which may be found upon any person arrested or within his possession, shall be seized and turned over to the municipal judge and released to the chief of police and retained by and forfeited to the city, and shall be disposed of in accordance with Tennessee Code Annotated, § 39-17-1317. (1994 Code, § 3-308)

3-309. Disposition of abandoned and confiscated property. The city judge may order the chief of police to seize and take possession of all stolen or abandoned personal property, together with all personal property which the city judge shall order confiscated as the fruits of a crime or used in the commission of such crime. The police department may also take similar possession for a reasonable time until the city judge can be contacted. (1994 Code, § 3-309)

3-310. City litigation tax. On cases in city court there is hereby levied a city litigation tax of thirteen dollars and seventy-five cents ($13.75). The city litigation taxes levied pursuant to this section are in addition to any other court costs or fees established in this title. (Ord. #2009-13, July 2009, as replaced by Ord. #2011-02, March 2011, and Ord. #2012-26, Dec. 2012)

3-311. Collection agencies. (1) In accordance with Tennessee Code Annotated, § 40-24-105(e), the City of La Vergne is authorized to employ the services of a collection agency to collect fines, court costs and litigation taxes assessed by the municipal court where the fines and costs have not been collected within sixty (60) days after they were due. Any fees of the collection agency shall be assessed as additional court costs in connection with the city offense. Interest will be collected on each account at a rate of ten percent (10%) per annum, in accordance with Tennessee Code Annotated, § 47-14-121.

(2) Any such contract with a collection agency shall be in writing, and shall include a provision specifying that the collection agency may institute an action to collect fines and costs in a judicial proceeding. The collection agency may be paid an amount approved by the city administrator which does not exceed any statutorily approved fees authorized by Tennessee Code Annotated, § 40-24-105(e).

(3) The contract with such collection agency may also include the collection of unpaid parking fines as provided in Tennessee Code Annotated, § 6-54-513, after the notices required by law are mailed to registered vehicle owners. (as added by Ord. #2011-30, Dec. 2011)

3-312. Electronic traffic citation regulations and fees.

(1) Establishment of fee. Pursuant to Tennessee Code Annotated, § 55-10-207(e), the court clerk shall charge and collect an electronic traffic citation fee of five dollars ($5.00) for each traffic citation - whether written or electronic - resulting in a conviction. Such fee shall be assessable as court costs and paid by the defendant for any traffic citation that results in a plea of guilty or nolo contendere, or a judgment of guilty. This fee shall be in addition to all other fees, taxes and charges.

(2) Distribution of fee. Pursuant to Tennessee Code Annotated, § 55-10-207(e), one dollar ($1.00) of such fee shall be retained by the court clerk. The remaining four dollars ($4.00) of the fee shall be transmitted monthly by the court clerk to the city police department.

(3) Use of fee. (a) Pursuant to Tennessee Code Annotated, § 55-10-207(e), all funds derived from the electronic traffic citation fee that are transmitted to the city police department shall be accounted for in a special revenue fund of the police department and may only be used for the following purposes:

(i) Electronic citation system and program related expenditures; and

(ii) Related expenditures by the police department for technology, equipment, repairs, replacement and training to maintain electronic citation programs.

(b) Pursuant to Tennessee Code Annotated, § 55-10-207(e), all funds derived from the electronic traffic citation fee set aside for court clerks shall be used for computer hardware purchases, usual and

necessary computer related expenses, or replacement. Such funds shall be preserved for those purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(4) Effective date. This section shall take effect from and after its final passage, the public welfare requiring it, and the electronic traffic citation fee described herein shall apply to citations issued on or after September 1, 2019.

(5) Sunset provision. In accordance with the provisions of Tennessee Code Annotated, § 55-10-207(e), the electronic traffic citation fee established herein shall terminate five (5) years from September 1, 2019, and the citation fee shall not apply to any citation issued on or after September 1, 2024. (as added by Ord. #2019-30, Aug. 2019 ***Ch3_9-3-19***)

CHAPTER 4

WARRANTS AND SUBPOENAS

SECTION

3-401. Issuance of arrest warrants.
3-402. Issuance of subpoenas.

3-401. Issuance of arrest warrants.[1] The municipal judge may issue warrants for the arrest of persons charged with violating city ordinances within the city. Only one (1) warrant shall be issued for the same offense, the warrant to embrace all the parties charged with the same offense. No arrest shall be made except upon a warrant duly issued, unless the offense is committed in the presence of the officer making the arrest, or unless in a case of felony. The affidavit upon which the warrant is issued shall especially state the offense charged. (1994 Code, § 3-401)

3-402. Issuance of subpoenas. The 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, § 3-402)

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[1]State law reference
For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

CHAPTER 5

BONDS AND APPEALS

SECTION

3-501. Appearance bonds authorized.
3-502. Appeals from municipal court.
3-503. Deposit of C.D.L. or operator's license in lieu of bond.

3-501. Appearance bonds authorized. When the municipal 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 be allowed to post an appearance bond with the municipal 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. Whenever any person is arrested for the violation of any city ordinance in the presence of a police officer and no warrant has been issued or served, he may execute an appearance bond in an amount not exceeding sixty dollars ($60.00), and file the same with a police desk sergeant, or he may, in lieu of the execution of an appearance bond, deposit a sum not exceeding sixty dollars ($60.00), with a police desk sergeant and be given a receipt for it, and on the appearance of the person before the city court at the time specified in the receipt the deposit shall be returned to him. On the failure of the person to appear at the time specified, the amount so deposited shall be forfeited to the municipality and he shall not be entitled to the return of any part thereof and it shall not be necessary to issue a scire facias; provided, however, that within two (2) days of the imposition of the forfeiture the municipal judge may set aside the conditional judgment imposing the forfeiture when it appears that the failure of the accused to appear and defend his suit was due to no fault or negligence of the accused. After the expiration of the two (2) days, there may be a final judgment imposing a forfeiture. (1994 Code, § 3-501)

3-502. Appeals from municipal court. Any person dissatisfied with the judgment of the municipal judge in any case or cases heard and determined by the municipal judge, may, within ten (10) entire days thereafter, Sundays exclusive, appeal to the next circuit court of the county, upon giving bond with good and sufficient security as approved by the municipal judge for his appearance or the faithful prosecution of the appeal.[1] In prosecutions for the violations of the city ordinances the bond shall not exceed two hundred fifty dollars ($250.00). The appeal shall not act as a stay or supersedeas of the

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

imprisonment of any defendant who fails to pay a fine imposed, unless the defendant executes an appeal bond with solvent, qualified surety in double the amount of fine imposed, and conditioned to appear and prosecute his appeal and pay any fine and costs adjudged against him upon the appeal. Appeals from the judgment of the municipal court for violation of the criminal laws of the State of Tennessee shall be pursuant to the provisions of Rule 5 of the Tennessee Rules of Criminal Procedure. (1994 Code, § 3-502)

3-503. Deposit of C.D.L. or operator's license in lieu of bond. Pursuant to Tennessee Code Annotated, §§ 55-50-801, et seq., whenever any person lawfully possessed of a C.D.L. or operator's license theretofore issued to him by the Department of Safety, State of Tennessee, is issued a citation or arrested and charged with the violation of any city ordinance regulating traffic except one which requires mandatory revocation of the license, said person shall have the option of depositing his C.D.L. 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 in answer to any such charge before the court. All city officers and employees shall comply fully with the requirements of Tennessee Code Annotated, §§ 55-50-801 through 55-50-805, and any implementing orders of the Department of Safety, State of Tennessee. (1994 Code, § 3-503)

CHAPTER 6

POLICE DEPARTMENT AND MUNICIPAL COURT FINES AND FEES

SECTION

3-601. Municipal court fines.
3-602. Additional police department and municipal court fees.

3-601. Municipal court fines. Fines for the La Vergne Municipal Court shall be as follows:

Speeding:
- 1-10 MPH over speed limit: $5.00
- 11-20 MPH over speed limit: $10.00
- 21+ MPH over speed limit: $20.00

All city misdemeanor arrests $10.00
Animal control $5.00
Anti-noise regulation $5.00
Bumper law violation $5.00
Careless driving $50.00
Child restraint devices $50.00
Disregard traffic sign/signal $5.00
Failure to yield $5.00
Fire lane/hydrant $5.00
Failure to use headlights - dark/rain/fog $5.00
Failure to give proper signal $5.00
Financial responsibility $10.00
Handicap parking violation $50.00
Helmet or shield $5.00
High occupancy vehicle lane violation $50.00
Light law violation $5.00
Obstructing pedestrian walkway $5.00
Parking violations:
- If paid within 14 days $10.00
- If paid after 14 days $20.00

Registration violation $5.00
Rules of the road violation $5.00

Seat belt violations:
- 1st offense $10.00
- 2nd offense $20.00

Vehicle equipment violation $10.00
Vehicle over 15,000 LBS. $5.00
Vehicle losing load $10.00
Window tint violation $10.00

H.O.V. Lane: A violator of the H.O.V. Lane shall not be fined more than $50.00, nor more than $10.00 in court cost. (Ord. #2006-21, Oct. 2006, as amended by Ord. #2009-02, March 2009)

3-602. <u>Additional police department and municipal court fees</u>. Additional fees for the La Vergne Police Department and La Vergne Municipal Court shall be as follows:

Obtaining a city warrant $30.00
Second and consecutive continuances $10.00
Issuing subpoena $20.00
Service charge on returned checks $25.00
Traffic school $100.00
Storage:
All vehicles up to 1 ton capacity (per day) $10.00
Vehicles over 1 ton capacity (per day) $25.00
Items in evidence room (per day) $7.00
Service charge for non-criminal fingerprinting $5.00

(Ord. #2006-24, Oct. 2006, as amended by Ord. #2009-14, July 2009, and replaced by Ord. #2014-03, April 2014)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. PERSONNEL SYSTEM.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. INFECTIOUS DISEASE CONTROL POLICY.
5. DEFENSE AND INDEMNIFICATION OF CITY OFFICIALS AND EMPLOYEES.
6. CODE OF ETHICS.

CHAPTER 1

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

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 to be kept and reports made.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of La Vergne 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. (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 to be kept and reports made**. The human resource director shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1994 Code, § 4-105, modified)

CHAPTER 2

PERSONNEL SYSTEM

SECTION

4-201. Purpose.
4-202. Coverage.
4-203. Administration.
4-204. Personnel rules and regulations.
4-205. Records.
4-206. Right to contract for special services.
4-207. Discrimination.
4-208. Amendments.

4-201. Purpose. The purpose of this chapter is to establish a system of personnel administration in the City of La Vergne that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through the impartial application of sound management and personnel principals free of personal and political considerations and without regard of race, sex, age, creed, national origin or disability. (1994 Code, § 4-201)

4-202. Coverage. All offices and positions of the municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time positions in the city's service unless specifically placed in the exempt service. All offices and positions of the municipal government placed in the exempt service are as follows:

(1) Members of appointed boards and commissions;

(2) Consultants, advisers, and legal counsel rendering temporary professional service;

(3) Independent contractors;

(4) Persons employed by the municipality for not more than three (3) months during a fiscal year;

(5) Part-time employees paid by the hour or by the day, and not considered regular;

(6) Volunteer personnel appointed without compensation;

All positions of the municipal government not expressly exempted from coverage by this section shall be subject to the provisions of the city charter. (1994 Code, § 4-202)

4-203. Administration. The personnel system shall be administered by the mayor, who shall have the following duties and responsibilities:

(1) Exercise leadership in developing an effective personnel administration system subject to provisions in this chapter, other ordinances, the city charter, and federal and state laws relating to personnel administration.

(2) Establish policies and procedures for the recruitment, appointment, and discipline of all employees of the municipality subject to those policies as set forth in the city charter, municipal code, and the personnel rules and regulations.

(3) Fix and establish the number of employees in the various municipal government departments and offices and determine the duties, authority, responsibility, and compensation in accordance with the policies as set forth in the city charter and code, and subject to the approval of the city board of mayor and aldermen and budget limitations.

(4) Foster and develop programs for the improvement of employee effectiveness, including training, safety, and health.

(5) Maintain records of all employees subject to the provisions of this chapter of the code which shall include each employee's class, title, pay rates, and other relevant data.

(6) Make periodic reports to the board of mayor and aldermen regarding the administration of the personnel system.

(7) Prepare and recommend to the board of mayor and aldermen a pay plan for all municipal government employees.

(8) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the municipal government.

(9) Certify payrolls.

(10) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law and the board of mayor and aldermen. (1994 Code, § 4-203, modified)

4-204. <u>Personnel rules and regulations</u>. The mayor or his designee shall develop rules and regulations, necessary for the effective administration of the personnel system. Amendments to the personnel rules and regulations shall be by resolution to the board of mayor and aldermen. (1994 Code, § 4-204, modified)

4-205. <u>Records</u>. The mayor or his designee shall maintain adequate records of the employment record of every employee as specified herein. (1994 Code, § 4-205, modified)

4-206. <u>Right to contract for special services</u>. The city board of mayor and alderman may direct the city administrator to contract with any competent agency for the performance of such technical services in connection with the operation of the personnel system as may be deemed necessary. (1994 Code, § 4-206)

4-207. <u>Discrimination</u>. No person in the classified service or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in

any way favored or discriminated against because of political opinions or affiliations, or because of race, color, creed, national origin, sex, ancestry, age, or religious belief. (1994 Code, § 4-207)

4-208. Amendments. Amendments or revisions of these rules may be recommended for adoption by the mayor or his designee. Such amendments or revisions of these rules shall be by resolution and shall become effective after approval by the board of mayor and aldermen. (1994 Code, § 4-208, modified)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-301. Title.
4-302. Purpose.
4-303. Coverage.
4-304. Standards authorized.
4-305. Variances from standards authorized.
4-306. Administration.
4-307. Funding the program.

4-301. Title. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of La Vergne. (1994 Code, § 4-301, as replaced by Ord. #2013-20, Dec. 2013)

4-302. Purpose. The City of La Vergne, in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees, and shall:

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

(a) Top management commitment and employee involvement;

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

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

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

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

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

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

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (1994 Code, § 4-302, as replaced by Ord. #2013-20, Dec. 2013)

4-303. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of La Vergne shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1994 Code, § 4-303, as replaced by Ord. #2013-20, Dec. 2013)

4-304. Standards authorized. The occupational safety and health standards adopted by the City of La Vergne are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972. (T.C.A., title 50, chapter 3) (1994 Code, § 4-304, as replaced by Ord. #2013-20, Dec. 2013)

4-305. Variances from standards authorized. The City of La Vergne may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated , title 50. Prior to requesting such temporary variance, the City of La Vergne will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (1994 Code, § 4-305, as replaced by Ord. #2013-20, Dec. 2013)

4-306. Administration. For the purpose of this chapter, the city administrator or his designee is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer the program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05,

as authorized by Tennessee Code Annotated, title 50. (1994 Code, § 4-306, as replaced by Ord. #2013-20, Dec. 2013)

4-307. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of La Vergne. (1994 Code, § 4-307, as replaced by Ord. #2013-20, Dec. 2013)

CHAPTER 4

INFECTIOUS DISEASE CONTROL POLICY

SECTION

4-401. Purpose.
4-402. Coverage.
4-403. Administration.
4-404. Definitions.
4-405. Policy statement.
4-406. General guidelines.
4-407. Hepatitis B vaccinations.
4-408. Reporting potential exposure.
4-409. Hepatitis B virus post-exposure management.
4-410. Human immunodeficiency virus post-exposure management.
4-411. Disability benefits.
4-412. Training regular employees.
4-413. Training high risk employees.
4-414. Training new employees.
4-415. Records and reports.
4-416. Legal rights of victims of communicable diseases.

4-401. Purpose. It is the responsibility of the City of La Vergne 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 La Vergne, 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)

4-402. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to infectious materials 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)

4-403. 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 other potentially infectious materials;
(3) Maintain records of all employees and incidents subject to the provisions of this chapter;
(4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
(5) Coordinate and document all relevant training activities in support of the infection control policy;
(6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
(7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and 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 aldermen. (1994 Code, § 4-403)

4-404. 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 potentially infectious materials 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 potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. (1994 Code, § 4-404)

4-405. Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (1994 Code, § 4-405)

4-406. General guidelines. General guidelines which shall be used by everyone include:

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

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

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

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. 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 other potentially infectious materials to which universal precautions apply:

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees 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 potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

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

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

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

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. <u>NOTE</u>: Sharp objects must be placed in an impervious container and properly dispose of the objects.

(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 blood or other potentially infectious materials 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 potentially infectious materials.

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

4-407. <u>Hepatitis B vaccinations</u>. The City of La Vergne shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and 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)

4-408. <u>Reporting potential exposure</u>. 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)

4-409. 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)

4-410. 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)

4-411. 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)

4-412. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (1994 Code, § 4-412)

4-413. 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 material as per this policy. (1994 Code, § 4-413)

4-414. 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)

4-415. 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 (i.e.

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)

4-416. 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 the 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 circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

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

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil/and/or criminal prosecution. (1994 Code, § 4-416)

CHAPTER 5

DEFENSE AND INDEMNIFICATION OF CITY OFFICIALS AND EMPLOYEES

SECTION

4-501. Definitions.
4-502. Legal representation.
4-503. Exclusions - determination of representation.
4-504. Payment of claims - conditions of representation.
4-505. Refusal to cooperate.
4-506. Conflict with provisions of insurance policies.
4-507. Pending claims.
4-508. Other indemnification.
4-509. Indemnification for criminal charges.

4-501. Definitions. For the purpose of this chapter, the following words shall have the following meanings unless the context indicates otherwise:

(1) "Claim" means a claim, civil action or proceeding filed against such official or employee, in his or her official or individual capacity or both, on account of an act or omission arising out of the scope of his or her employment as an official or employee of the city.

(2) "Employee" means any person who is or has been employed in the service of the city.

(3) "Official" means any person who is serving or has been served as an elected or appointed city officer and any person who is serving or has served as an appointed member of any city board, commission, agency or committee. (1994 Code, § 4-601)

4-502. Legal representation. Subject to the conditions and requirements of this chapter, the city shall, upon request of any present or former official or employee, provide to the official or employee such legal representation as may be reasonably necessary to defend any claim filed against the official or employee, arising out of the performance, purported performance or failure of performance, in good faith, of duties for or employment with the city. This legal representation shall be provided by the city attorney or the city attorney's designee, except as may be provided under an insurance policy or self insurance or joint insurance program. (1994 Code, § 4-602)

4-503. Exclusions - determination of representation. This chapter shall not apply to any dishonest, fraudulent, willful misconduct, criminal or malicious act of the person requesting defense and indemnification, to any act outside the scope of service or employment, to any lawsuit brought by or on behalf of the city, to any matter which would create a conflict of interest

between the city and the person or persons involved, or to any accident, occurrence or circumstance in which the city or an official or employee is insured against loss or damages under the terms of a city insurance policy or self insurance or a joint insurance program.

The city attorney or his designee shall determine whether an official or employee was performing duties for or employment with the city in good faith, and whether an official or employee committed a dishonest, fraudulent, criminal or malicious act. The official or employee may appeal such determination to the mayor and board of aldermen. (1994 Code, § 4-603)

4-504. <u>Payment of claims - conditions of representation</u>. At the request of an official or employee, the city attorney or his designee shall investigate and defend a claim which is covered by this chapter. If that claim is deemed by the city attorney or his designee to be a proper claim against the official or employee, the claim shall be paid by the city as long as the following requirements are met.

(1) As soon as practicable after receipt of notice of a claim, the official or employee shall give the city attorney written notice of the claim, specifying the names of the officials or employees involved, the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim, the names and addresses of all persons allegedly injured, the names and addresses of owners of allegedly damaged property, and the names and addresses of all witnesses.

(2) The official or employee shall cooperate with the city attorney or his designee and, upon request, shall assist in making settlements of any lawsuits and in enforcing any claim for subrogation against any persons or organizations that may be liable to the city because of any damages or losses arising from the incident or conduct.

(3) The official or employee shall attend interviews, depositions, hearings and trials as requested, and assist in securing and giving evidence and obtaining the attendance of witnesses.

If the city attorney or his designee determines that a claim against an official or employee is not covered by this chapter and a court of competent jurisdiction, in a final judgment, finds that the claim is covered by this chapter, the city shall pay the claim and reasonable attorney's fees. (1994 Code, § 4-604)

4-505. <u>Refusal to cooperate</u>. If any official or employee fails or refuses to meet the requirements of section 4-604 herein or elects to provide his or her own representation on any claim, this chapter shall be inapplicable and of no force and effect with respect to that claim. (1994 Code, § 4-605)

4-506. <u>Conflict with provisions of insurance policies</u>. Nothing contained in this chapter shall be construed to modify or amend any provision of any insurance policy or any coverage through a self insurance or joint

insurance program. If there is a conflict between this chapter and the provisions of any such policies or coverage, the provisions of any such policies or coverage shall control. (1994 Code, § 4-606)

4-507. <u>Pending claims</u>. This chapter shall apply to any pending claim against an official or employee and to any claim hereafter filed irrespective of the date of the events or circumstances giving rise to the claim. (1994 Code, § 4-607)

4-508. <u>Other indemnification</u>. In any other action or proceeding, including proceeding which took place before the passage of this chapter,[1] the city may provide for the defense or pay the defense costs of a present or former city official, if the city attorney determines that such representation or defense costs were incurred while the official or employee was performing, purporting to perform or failing to perform, in good faith, duties for or employment with the city and such actions or failure to act did not fall under the exclusions of section 4-603 of this chapter. Such past costs may be paid only on presentation of canceled checks drawn on the account of the official. (1994 Code, § 4-608)

4-509. <u>Indemnification for criminal charges</u>. (1) In the event that a criminal charge or charges are brought against an employee or official on account of an act or omission arising out of the scope of his or her employment as an official or employee of the city; and, provided that the alleged criminal conduct does not constitute a violation of the ordinances of the city and provided that said criminal charges are not brought by or on behalf of the city, the city may, upon request of any present or former official or employee, provide to the official or employee such legal representation as may be reasonably necessary to defend the charge or charges filed against the official or employee, arising out of the performance, purported performance or failure of performance, in good faith, of duties for or employment with the city.

(2) Requests made pursuant to this section shall be presented to the board of mayor and aldermen which shall determine, by majority vote, whether to grant or deny said request. (Ord. #2008-02, March 2008)

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[1]These provisions were taken from Ordinance #96-16 which passed final reading September 5, 1996.

CHAPTER 6

CODE OF ETHICS

SECTION

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4-601. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #2007-13, June 2007)

4-602. Definition of "personal interest." (1) For purposes of §§ 4-603 and 4-604, "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 stepchild(ren).

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #2007-13, June 2007)

4-603. <u>Disclosure of personal interest by official with vote</u>. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (Ord. #2007-13, June 2007)

4-604. <u>Disclosure of personal interest in nonvoting matters</u>. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #2007-13, June 2007)

4-605. <u>Acceptance of gratuities, etc</u>. (1) An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(a) 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

(b) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

(2) It is presumed that any gift or gratuity accepted by an official or employee equal to, or less than, fifty dollars ($50.00) shall not constitute a violation of this code. (Ord. #2007-13, June 2007)

4-606. <u>Use of information</u>. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #2007-13, June 2007)

4-607. <u>Use of municipal time, facilities, etc</u>. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage

to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #2007-13, June 2007)

4-608. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #2007-13, June 2007)

4-609. Outside employment. With the exception of the city judge, city attorney, and any other part time employee or official, an official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #2007-13, June 2007)

4-610. Ethics complaints. (1) The board of mayor and aldermen shall appoint an ethics officer who shall serve at the pleasure of the board of mayor and aldermen and be compensated for services rendered as the ethics officer. Upon the written request of an official or employee potentially affected by a provision of this chapter, the ethics officer 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 ethics officer shall investigate any credible complaint against an elected official, 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 officer's judgment, constitutes a violation of this code of ethics.

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

(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.

(5) In the event that the ethics officer finds a complaint to be frivolous, or in bad faith, the individual or individuals that filed the complaint shall be subject to a civil penalty equal to the cost associated with the investigation of

the frivolous complaint, including any fee charged by the ethics officer for investigation of the complaint.

(6) The board of mayor and aldermen may authorize the city attorney to file a cause of action against the individual or individuals responsible for the frivolous complaint for enforcement and collection of the civil penalty. (Ord. #2007-13, June 2007)

4-611. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #2007-13, June 2007)

4-612. Filing of complaints. Any complaint brought pursuant to this ordinance shall be filed with the city recorder's office and shall identify the person or persons making said complaint, their address and telephone number, and the facts upon which this complaint is made. The board of mayor and alderman may, by resolution, set a fee to be charged for the filing of said complaint. In the event that the subject of a complaint is found to have violated this ordinance, the person that filed the complaint shall be entitled to a refund of the filing fee referenced herein.

The ethics officer shall investigate any complaint he or she deems credible. As part of his or her investigation, the ethics officer shall further make a written finding if any complaint is found to be frivolous or in bad faith. In the event that the ethics officer finds that a complaint on its face to lack credibility or if, in the opinion of the ethics officer, the allegation(s) set forth in the complaint do not constitute a violation of this ordinance, said complaint shall be dismissed. (Ord. #2007-13, June 2007)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

1. MISCELLANEOUS.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.
4. PURCHASING.
5. HOTEL/MOTEL TAX.
6. REAL AND PERSONAL PROPERTY TAXES.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depositories for city funds.
5-102. Signatures on checks drawn on city accounts.
5-103. Fiscal year.
5-104. Charitable contributions.

5-101. Official depositories for city funds. Municipal funds may be deposited in any depository institution as designated by the board of mayor and aldermen. Such depositories shall furnish such security as is required by Tennessee Code Annotated, § 6-4-402, before being given custody of any city funds. (1994 Code, § 5-101, modified)

5-102. Signatures on checks drawn on city accounts. Checks drawn on city accounts shall be signed by two (2) members of the board of mayor and aldermen as designated by ordinance or resolution of the board of mayor and aldermen. (1994 Code, § 5-102, modified)

5-103. Fiscal year. The fiscal year for the city shall begin on July 1 of each year and end on June 30 of the following year. (1994 Code, § 5-103)

5-104. Charitable contributions. All financial aid to nonprofit charitable organizations shall be made by specific resolution and only to an organization in which no part of the net earnings inures or may lawfully inure

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[1]Charter references
For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated, § 6-4-402.

to the benefit of any private share holder or individual and which provides year round services benefitting the general welfare of the residents of the city. The recipient of said funds must meet the provisions of the Tennessee Code Annotated, § 6-54-111 in addition to any requirements for the Comptroller of the Treasury for the State of Tennessee. (1994 Code, § 5-104, modified)

CHAPTER 2

PRIVILEGE TAXES

SECTION

5-201. Tax levied.
5-202. License required.
5-203. Refund of overpayment of business tax.

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 doing business or exercising a taxable privilege as provided by said Act, in the City of La Vergne, Tennessee, at the rates and in the manner prescribed by the said Act. The proceeds of the privilege taxes herein levied shall accrue to the general fund. (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 tax collector to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1994 Code, § 5-202, modified)

5-203. Refund of overpayment of business tax. The city is authorized to settle and adjust with tax payers all errors and double assessments of city business taxes erroneously collected and to direct the refunding of the same. Any claim for such refund to the city of business tax revenues alleged to have been erroneously paid shall be filed with the tax collector supported by proper proof within one (1) year from date of payment, otherwise the taxpayer shall not be entitled to refund and said claim for refund shah be barred.

In addition, the city is authorized to make refunds without a claim being filed if in possession of proper proof and facts that a refund is due within the period of limitation described above. (1994 Code, § 5-401, modified)

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. To be collected. The mayor 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, and such tax in the amount of seventeen percent (17%) of the wholesale price is hereby levied by the City of La Vergne.[1] (1994 Code, § 5-301)

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[1]State law reference

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

CHAPTER 4

PURCHASING

SECTION

5-401. Public advertising and competitive bidding.

5-401. Public advertising and competitive bidding. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of twenty-five thousand dollars ($25,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983. (1994 Code, § 5-501, as amended by Ord. #2009-3, March 2009, and replaced by Ord. #2016-04, June 2016 ***Ch3_9-3-19***)

CHAPTER 5

HOTEL/MOTEL TAX

SECTION

5-501. Definitions.
5-502. Levy of tax.
5-503. Tax added to room invoice.
5-504. Remittance to city tax collector.
5-505. Method of reporting taxes.
5-506. Offer to absorb tax prohibited.
5-507. Penalties and interest for delinquency.
5-508. Records.
5-509. Administration.
5-510. Collection of tax.
5-511. Allocation of proceeds.

5-501. Definitions. Definitions as used in this chapter unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to the use or possession, or any room, of any room, lodgings or accommodations in any hotel;

(4) "Operator" means the person operation the hotel whether as owner, lessee or otherwise;

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days. (1994 Code, § 5-601)

5-502. **Levy of tax**. There is hereby levied, assessed and imposed and shall be paid and collected, a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount equal to two and one-half (2 ½%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this chapter. (1994 Code, § 5-602)

5-503. **Tax added to room invoice**. The tax shall be added by each operator to each invoice which the operator prepares and gives directly, or transmits, to the transient for the occupancy of the operator's hotel. The tax so invoiced shall be collected from the transient by the operator and remitted to the municipality. When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to that person, and the operator shall receive credit for the amount of such tax if previously paid or reported to this municipality. (1994 Code, § 5-603)

5-504. **Remittance to city tax collector**. The tax levied shall be remitted by all operators who lease, rent or charge for rooms or spaces in hotels within the municipality, to the City Tax Collector of the City of La Vergne, such tax to be remitted to such city tax collector no later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the municipality for such tax shall be that of the operator. For the purpose of compensating the operator in accounting for remitting the tax levied pursuant to this chapter, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the city tax collector in the form of a deduction in submitting the operator's report and paying the amount due by such operator; provided, that the amount due was not delinquent at the time of payment. (1994 Code, § 5-604)

5-505. **Method of reporting taxes**. The city tax collector shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return under oath shall be filed with the city tax collector by the operator with such number of copies thereof as the city tax collector may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city tax collector and approved by the board of mayor and aldermen prior to use. The city tax collector shall audit each operator in the municipality at least once per year and shall report on the audits made to the legislative body at least quarterly. (1994 Code, § 5-605)

5-506. Offer to absorb tax prohibited. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (1994 Code, § 5-606)

5-507. Penalties and interest for delinquency. Taxes collected by an operator which are not remitted to the city tax collector on or before the due dates are delinquent taxes. An operator shall be liable for interest from the due date at the rate of twelve percent (12%) per annum, and in addition, a penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is declared to be unlawful and shall be punishable upon conviction by a fine not in excess of the maximum amount allowed to be imposed by the La Vergne City Court. (1994 Code, § 5-607)

5-508. Records. It shall be the duty of every operator liable for the collection and payment to the municipality of the tax imposed by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax for which the operator may have been liable for the collection of and payment to the municipality, which records the city tax collector shall have the right to inspect at all reasonable times. (1994 Code, § 5-608)

5-509. Administration. The city tax collector in administering and enforcing the provisions of this chapter shall have, as additional powers, those powers and duties with respect to collection taxes as provided in Tennessee Code Annotated, Title 67, or otherwise provided by law for the county clerks. Upon any claim or illegal assessment and collection, the taxpayer shall have the remedies provided in Title 67, it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The city tax collector shall also possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-107 for county clerks.

With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the city tax collector under the authority of this chapter shall be refunded by the city tax collector. Notice of any tax paid under protest shall be given to the city tax collector and any suit may be brought for recovery of such tax paid under protest by filing the same against the city tax collector. (1994 Code, § 5-609)

5-510. Collection of tax. The city tax collector is hereby charged with the duty of collection of the tax herein authorized and the proceeds of the tax

authorized by this chapter shall be allocated to and placed in the general fund or other fund of the municipality to be used for the purpose of depositing the tax collected by this chapter. (1994 Code, § 5-610)

5-511. Allocation of proceeds. The proceeds received by the municipality from the tax herein imposed shall be placed in the general fund and shall be allocated by the board of mayor and aldermen in the yearly budget. (1994 Code, § 5-611)

CHAPTER 6

REAL AND PERSONAL PROPERTY TAXES

SECTION

5-601. When due and payable.
5-602. When delinquent--penalty and interest.
5-603. Property tax relief program.

5-601. When due and payable. Taxes levied by the city against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (as added by Ord. #2011-23, Oct. 2011)

5-602. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes. (as added by Ord. #2011-23, Oct. 2011)

5-603. Property tax relief program. (1) A property tax relief program for elderly low income taxpayers, totally and permanently disabled taxpayers and disabled veteran taxpayers is hereby established.

(2) The taxpayers to receive this relief shall be determined in accordance with the property tax relief listing as specified by Tennessee Code Annotated, §§ 67-5-701 through 67-5-705, as amended, issued by the State of Tennessee.

(3) The amount of property tax relief granted by the city shall be an additional amount equivalent to the municipal property tax relief given by the State of Tennessee as defined above. The total property tax relief provided cannot exceed the total property taxes actually paid.

(4) The city administrator, or his designee, is hereby authorized to develop the necessary procedures to execute said program. (as added by Ord. #2011-23, Oct. 2011)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.
2. LA VERGNE POLICE DEPARTMENT RESERVE OFFICER UNIT.

CHAPTER 1

POLICE AND ARREST[1]

SECTION

6-101. Policemen subject to chief's orders.
6-102. Policemen to preserve law and order, etc.
6-103. Policemen to wear uniforms and be armed.
6-104. When policemen to make arrests.
6-105. Disposition of persons arrested.
6-106. Police department records.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (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 municipal court during the trail of cases. Policemen shall also promptly serve any legal process issued by the municipal court. (1994 Code, § 6-102)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1994 Code, § 6-103)

6-104. When policemen to make arrests.[2] 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:

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[1]Municipal code reference
"La Vergne police": § 11-807.

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

(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, § 6-104)

6-105. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense, he shall be brought before the municipal court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1994 Code, § 6-106)

6-106. 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, § 6-107)

CHAPTER 2

LA VERGNE POLICE DEPARTMENT RESERVE OFFICER UNIT

SECTION

6-201. Establishment of police department reserve officer unit.
6-202. Qualifications.
6-203. Authority.
6-204. Supervision.
6-205. Uniforms.
6-206. Workers' compensation.
6-207. Liability insurance.

6-201. Establishment of police department reserve officer unit. There is hereby created within the City of La Vergne in the police department, a police reserve officer unit, the members of which shall be appointed by the chief of police and shall serve so long as the chief of police shall direct or until such member submits his resignation. Said police reserve officer unit shall assist and aid the regular police force of the City of La Vergne. (1994 Code, § 6-301)

6-202. Qualifications. The police reserve officer unit shall be composed of reserve police officers in a number not to exceed the amount as determined to be necessary by the chief of police. Said volunteers shall be not less than twenty-one (21) years of age at the time of appointment and shall have such qualifications as the appointing authority may determine. (1994 Code, § 6-302, as amended by Ord. #2008-20, Dec. 2008)

6-203. Authority. The police reserve officer unit shall have full police powers while on duty or under the control and direction of the chief of police or his designated agent upon completion of minimum training requirements. Said police reserve officer unit members shall have the powers of arrest, the privilege of carrying firearms while on duty, and all other powers lawfully afford full-time police officers. (1994 Code, § 6-303)

6-204. Supervision. The chief of police shall prescribe rules and regulations for the conduct, control and administration of the police reserve officer unit. Each member's record shall be subject to inspection and review for approval at intervals by the chief of police. A training officer shall be assigned for the police reserve officer unit by the chief of police. Members of said police reserve officer unit shall be under the supervision of the shift supervisor, the police reserve officer unit training officer, or the chief of police. All disciplinary action shall be administered by the chief of police or his designee. (1994 Code, § 6-304)

6-205. Uniforms. The chief of police shall prescribe the uniform to be worn by the members of the police reserve officer unit. The city shall provide uniforms, and the chief of police shall provide such equipment as he may deem necessary and proper. (1994 Code, § 6-305)

6-206. Workers' compensation. The City of La Vergne shall provide for coverage for each member of the police reserve officer unit by worker's compensation in accordance with Tennessee Code Annotated, § 7-51-201. (1994 Code, § 6-306)

6-207. Liability insurance. The City of La Vergne shall provide for coverage for each member of the police reserve officer unit by liability insurance while in the performance of official duties as described in § 6-303 and in accordance with Tennessee Code Annotated, § 7-51-203. (1994 Code, § 6-307)

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. LIFE SAFETY CODE.
4. BLASTING REGULATIONS.
5. FIRE DEPARTMENT FALSE ALARMS.
6. FIREWORKS.
7. LA VERGNE FIRE DEPARTMENT VOLUNTEER DIVISION.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire district described.

7-101. Fire district described. The corporate fire limits shall be the residential, commercial and industrial zones of the city as defined by applicable zoning regulations. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

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

CHAPTER 2

FIRE CODE[1]

SECTION

7-201. Definitions.
7-202. Fire code adopted.
7-203. Application.
7-204. Equal applicability.
7-205. Enforcement of chapter.
7-206. Fire code board of appeals.
7-207. Modifications.
7-208. Violations.
7-209. Penalties.
7-210. Area in which storage of flammable and combustible liquids in outside above ground tanks is permitted.
7-211. Residential storage of Class 1 flammable liquids.
7-212. Bulk storage of petroleum products restricted; building, businesses restricted.
7-213. Bulk storage of liquified petroleum gases restricted; building, businesses restricted.
7-214. Bulk storage of liquified natural gas restricted; building, businesses restricted.
7-215. Compression, storage and dispensing of compressed natural gas restricted; building, businesses restricted.
7-216. Routes for vehicles transporting hazardous materials.
7-217. Transportation of hazardous materials.
7-218. Hazardous substances; recovery of costs.
7-219. Storage, dispensing, use and handling of hazardous materials, restricted.
7-220. Gasoline trucks.
7-221. Open burning.
7-222. Fire lanes on private property, devoted to public use.
7-223. Obstruction of fire protection equipment.
7-224. Key box.
7-225. Manual fire alarm box covers.
7-226. Protection of gas equipment.
7-227. Fire department connection.
7-228. Combustible mulch.
7-229. Automatic fire sprinkler system.

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

7-230. Safeguarding construction, alteration, and demolition operations.
7-231. Premises identification.

7-201. Definitions. (1) Wherever the word "jurisdiction" is used in the International Fire Code adopted by the provisions of this code, it shall be held to mean the City of La Vergne, Tennessee.

(2) Wherever the term "fire code official" or "fire official" is used in the International Fire Code adopted by the provisions of this code, it shall be held to mean the fire chief, or duly authorized representative being fire inspector.

(3) Wherever the term "department of fire prevention" is used in the International Fire Code, it refers to the La Vergne Fire Department.

(4) "Air curtain destructor" is a unit consisting of a combustion chamber pit and air blower designed to establish a curtain of high velocity air above the fire burning in the pit so that the products of combustion must be forced up through the curtain before they reach the outside air.

(5) "Open burning" is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack.

(6) "Person" is any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, an agency, authority, commission, or department of the United States, or of the State of Tennessee; or any other legal entity, or their legal representative, agent, or assigns.

(7) "Rubbish" is any material thrown away as worthless trash.

(8) "Wood waste" is defined as any product which has not lost its basic character as wood, such as bark, sawdust, limbs, tree trunks, chips and chemically untreated lumber whose "disposition" by open burning is to solely get rid of or destroy. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-202. Fire code adopted. (1) Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-502, et seq., and for the purpose of regulating and governing the safe-guarding of life and property from fire or 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, and providing for the issuance of permits in the City of La Vergne, the 2012 edition of the International Fire Code,[1] including Appendices A, B, C, and D, is hereby adopted by reference and included herein as part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502 one (1) copy of said

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

International Fire Code has been filed with the recorder and is available for public use and inspection. Said International Fire Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. The International Fire Code, chapter 80, Referenced Standards of the National Fire Protection Association shall be the latest editions published by the National Fire Protection Association.

(2) Modifications. (a) Section 101.1 Title. Add "City of La Vergne, TN" in place of "[name of jurisdiction]";

(b) Section 1008.1.9.4 Bolt locks. Exceptions #3 and 4. Add "M" after "F". (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2012-14, Aug. 2012, Ord. #2013-22, Jan. 2014, and Ord. #2014-05, May 2014)

7-203. Application. The provisions of the codes adopted by reference in § 7-202 shall govern the manner in which:

(1) The codes are applied to new construction and existing buildings;

(2) Occupancies and types of construction are classified for the purpose of determining minimum code requirements;

(3) The specific requirements of the codes may be modified to permit the use of alternate materials or methods of construction. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-204. Equal applicability. The provisions of the fire code shall apply equally to both public and private property, and it shall apply to all structures and their occupancies, except as otherwise specified. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-205. Enforcement of chapter. The International Fire Code herein adopted by reference shall be enforced by the fire chief of the city, or his duly authorized representative. Any other persons so authorized by the city administrator or his designee to make inspections shall be designated as a "fire inspector." The fire chief or his designee, or fire inspector shall be authorized to inspect all property within the city and any future area that shall be annexed to the city. Authority to enforce traffic and parking rules and regulations relating to fire safety shall be shared equally by the fire chief or his designee and the police chief.

The fire chief or his designee and the fire inspector shall be authorized to issue summons, citations, written notices and take any action required to remove or abate any situation that poses an immediate threat to life and/or property. The fire inspector shall be authorized to issue written notices for code violations. The fire official shall be authorized to grant an extension of up to thirty (30) days time limit to correct violations upon proof and receipt of written request not less than three (3) days prior to expiration of notice. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-206. Fire code board of appeals. The City of La Vergne Construction Board of Adjustments and Appeals shall hear any filed appeal and the established laws, ordinances, and rules regarding such board shall govern. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-207. Modifications. The fire chief may recommend to the board of mayor and aldermen modifications of the provisions of the International Fire Code upon application, in writing, by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modifications when granted or allowed shall be contained in an amendment to this code or a resolution of the board of mayor and aldermen. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-208. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the International Fire Code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-209. Penalties. (1) Any person violating any of the provisions of this chapter, the International Fire Code or the conditions of any permit issued hereunder, shall be served by the fire official with a summons, citation or written notice stating the nature of the violation, and providing up to thirty (30) working days time limit for the satisfactory correction thereof.

(2) The offender shall, within the time period stated in such notice, permanently cease all violations as prescribed by the fire official. Any permit issued hereunder shall be void until such time as the violation is corrected.

(3) Any person who shall continue any violation beyond the time provided for in § 7-209(1), shall be served by the fire code official with a summons stating the nature of the violation. Such violation shall be punishable by a civil penalty not to exceed fifty dollars ($50.00) or, in cases where the penalty is remedial in nature, a civil penalty not to exceed five hundred dollars ($500.00).

(4) As to any violation deemed by the fire code official to be emergency in nature, or which poses an immediate danger to life or property, involves fire,

or necessitates removal or abatement by the fire department, the fire code official may issue a summons stating the nature of the violation and requiring the appearance of the violator in city court. In such cases, the fire code official shall not be required to give any prior notice of violation or opportunity to correct the condition. Any such violation shall be punishable by a civil penalty not to exceed fifty dollars ($50.00) or, in cases where the penalty is remedial in nature, a civil penalty not to exceed five hundred dollars ($500.00).

(5) Any person violating any of the provisions of this chapter shall become liable to the city for expense, loss or damage occasioned by the city personnel or equipment by reason of such violation. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-210. <u>Area in which storage of flammable and combustible liquids in outside above ground tanks is permitted</u>. (1) Storage of flammable and combustible liquids above ground in commercial and industrial areas is limited to one (1) tank of one thousand (1,000) gallons or less capacity per five (5) acres or portion thereof. Usage is limited to onsite non-retail needs. In addition, each processor in the area may have one (1) tank not to exceed five hundred (500) gallons for storage of fuel for equipment used to mow grass push snow, etc., or one (1) tank per product per five (5) acres.

(2) Storage of flammable and combustible liquids in outside above ground tanks allowed under above provisions, shall meet requirements of the fire code and NFPA 30-1993. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-211. <u>Residential storage of Class I flammable liquids</u>. The erection and maintenance of storage tanks, either above or below ground, for the storage of Class I flammable liquids in residential districts is prohibited except as follows:

(1) Where such properties are to be used for heating purposes in a residence located upon the property;

(2) Any nonresidential or non-retail use area may have tanks not to exceed five hundred (500) gallons each for storage fuel for equipment used to mow grass, push snow, etc., or one (1) tank per product per five (5) acres. Such location shall not be within six hundred feet (600') of a residential structure.

(3) Residential storage of Class I flammable liquids allowed under above provisions shall meet requirements of the fire code and NFPA 30-A-1993. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-212. <u>Bulk storage of petroleum products restricted; building, businesses restricted</u>. (1) It is unlawful for any person to establish, erect, construct, or enlarge a plant or place of business where petroleum products are

to be manufactured or physically distributed or handled, except in the commercial and industrial areas of the city.

(2) Bulk storage of petroleum products allowed under above provisions, shall meet requirements of the fire code and NFPA 30-1993. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-213. <u>Bulk storage of liquified petroleum gases restricted; building, businesses restricted</u>. (1) It is unlawful for any person to establish, erect, construct, or enlarge a plant or place of business where liquefied petroleum gas or gases are to be manufactured or physically distributed or handled, except in the commercial and industrial areas of the city.

(2) Bulk storage of liquefied petroleum gases allowed under above provisions, shall meet requirements of the fire code and NFPA 58 and 59-1992. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-214. <u>Bulk storage of liquified natural gas restricted; building, businesses restricted</u>. (1) It is unlawful for any person to establish, erect, construct or enlarge a plant or place of business where liquified petroleum gas or gases are to be manufactured or physically distributed or handled, except in the commercial and industrial areas of the city.

(2) Bulk storage of liquified petroleum gases allowed under above provisions, shall meet requirements of the fire code and NFPA 59A-1990. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-215. <u>Compression, storage and dispensing of compressed natural gas restricted; building, businesses restricted</u>. (1) It is unlawful for any person to establish, erect, construct or enlarge a plant or place of business where compression, storage and dispensing of compressed natural gas or gases are to be manufactured or physically distributed or handled, except in the commercial and industrial areas of the city.

(2) Compression, storage and dispensing of compressed natural gases allowed under above provisions, shall meet requirements of the fire code, NFPA 52-1992 and regulations of the public service commission. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-216. <u>Routes for vehicles transporting hazardous materials</u>. Routes for vehicles transporting hazardous materials shall be as established by the fire chief or his designee and the city public works director. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-217. <u>Transportation of hazardous materials</u>. No person shall operate or park any vehicle carrying hazardous materials within the corporate limits of La Vergne at any time except while traveling on an established route and for the purpose of and while actually engaged in the expeditious delivery of hazardous materials. Vehicles transporting hazardous materials shall be prohibited within the limits of the fire district, except to make expeditious deliveries within the fire district. The date, time of day, quantity of materials, and method of delivery shall be subject to regulation and permitted by the fire official. Businesses located within the city may have vehicle parking sites designated, subject to review and approval by the fire official. This section shall apply to materials not otherwise covered in this code which are highly flammable, or which may react to cause fires or explosives, or by their presence create or augment a fire or explosion hazard, or which because of toxicity, flammability or liability to explosion render fire-fighting abnormally dangerous or difficult; also the flammable or combustible liquids which are chemically unstable and which may spontaneously form explosive compounds or undergo spontaneous reactions of explosive violence or with sufficient evolution of heat to be a fire hazard. Hazardous materials shall include flammable solids, corrosive liquids, poisonous gases or highly toxic, radioactive, oxidizing, unstable or reactive, hyperbolic or pyrophoric materials. Also, any substance or mixture of substance which is an irritant, a strong sensitizer, or which generates pressure through exposure to heat, decomposition or other means. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-218. <u>Hazardous substances; recovery of costs</u>. (1) As used in this section, the following terms shall be defined as follows:

(a) "Costs" means those necessary and reasonable costs incurred by the La Vergne Fire Department in connection with investigating, mitigating, minimizing, removing or abating discharges of hazardous substances including, but not limited to the following: actual labor cost of city personnel or its authorized agents; costs of equipment operation and rental; and cost of expendable items including, but not limited to, firefighting foam, chemical extinguishing agents, absorbent material, sand, recovery drums, acid suits, acid gloves, goggles and protective clothing.

(b) "Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of a hazardous substance upon public or private property located within the city limits of the City of La Vergne.

(c) "Hazardous substances" means any substances or materials in a quantity or form, which in the determination of the fire chief or his authorized designee poses an unreasonable and imminent risk to the life, health, safety or welfare of persons or property within the City of

La Vergne, and shall include, but not be limited to, those hazardous substances listed in the "NFPA Guide on Hazardous Materials," or the EPA's list of extremely hazardous substances.

(d) "Person" means one (1) or more individuals, partnerships, corporations, joint ventures, associations or any other entities or any combination thereof.

(2) (a) The fire department is hereby authorized to take such steps as necessary to clean up, remove or abate the effects of any hazardous substances discharged upon or into public or private property or facilities located within the limits of the city.

(b) Any person or persons responsible for causing or allowing an unauthorized discharge of hazardous substances that requires emergency action of the fire department of the City of La Vergne or its authorized agents in order to protect the public health, safety or welfare shall be jointly and severally liable to the City of La Vergne for the costs incurred by the city in investigating, mitigating, minimizing removing and abating any such discharge.

(c) When responding to the emergency caused by the unauthorized discharge of hazardous substances, the Fire Department of the City of La Vergne shall keep a detailed record of the costs attributable thereto.

(d) The authority to recover costs under this section shall not include costs incurred for actual fire suppression services which are normally or usually provided by the City of La Vergne, or its authorized agents.

(3) (a) Any person or persons responsible for causing or allowing an unauthorized discharge of hazardous substances shall reimburse the La Vergne Fire Department for the full amount of all costs, as defined herein, associated with the investigating, mitigating, minimizing, removing and abating any such discharge within a period of thirty (30) days after receipt of an itemized bill for such costs from the La Vergne Fire Department.

(b) Any person or persons responsible for causing or allowing an unauthorized discharge of hazardous substances and who fails to promptly reimburse the La Vergne Fire Department within the time set forth in subsection (3)(a) hereof, shall be subject to a penalty payment equal to five percent (5%) of the total amount of the bill for each month that the bill for such costs remains unpaid.

(c) The remedy provided for in this section shall be supplemental to and in addition to all other available remedies at law and equity. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-219. <u>Storage, dispensing, use and handling of hazardous materials, restricted</u>. (1) It is unlawful for any person to establish, erect, construct, or enlarge a plant or place of business where hazardous materials are to be manufactured or physically distributed or handled, except in the commercial and industrial areas of the city.

(2) Storage, dispensing, use and handling of hazardous materials allowed under the above provisions, shall meet requirements of the fire code.

(3) It shall be unlawful for any person to discharge a hazardous material by releasing, spilling, pumping, pouring, emitting, emptying or dumping.

(4) Hazardous materials shall not be released into a sewer, storm drain, ditch, drainage canal, creek, stream, river, lake or tidal waterway, or upon the ground, sidewalk, street, highway or into the atmosphere; except materials used for weed abatement, erosion control, soil amendment or similar applications when applied in accordance with the manufacturer's specifications and/or materials released in accordance with federal, state or local governmental regulations.

(5) The fire department shall be immediately notified when an unauthorized discharge of hazardous materials is discovered. The fire department shall notify the other responsible agencies. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-220. <u>Gasoline trucks</u>. 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. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-221. <u>Open burning</u>. (1) No person shall cause, suffer, allow, or permit open burning within the entire city limits of La Vergne except as set out in subsection (2).

(2) <u>Exceptions</u>:

(a) Non-commercial fires used for cooking of food including barbeques and outdoor fireplaces;

(b) Commercial incinerators;

(c) Commercial barbeque fireplaces;

(d) Non-commercial fires used for disposal of wood waste, ceremonial or recreation purposes including cookouts. Non-commercial fires other than bonfires shall not exceed more than three feet (3') in diameter and two feet (2') in height and be a minimum of twenty-five feet (25') away from any other combustible material.

(e) Bonfires shall not exceed five feet in diameter and four feet in height and must be a minimum of fifty feet (50') away from any other combustible material.

(f) Fires set by or at the direction of responsible fire control persons for training purposes or directed at the prevention, elimination, or reduction of fire hazards.

(g) Routine demolition of structures via supervised open burning by responsible fire control persons will not be considered fire training or elimination of a fire hazards. Demolition of structures may be conducted by open burning provided that there is unilaterally issued state or local building codes order to demolish the structure by open burning because of its structural failure or potential for structural failure. Such orders will be recognized only where there is no other safe way to demolish the structure.

(h) Fires used to clear land consisting solely of vegetation grown on that land for forest or game management purposes.

(i) Smokeless flares or safety flares for the combustion of waste gases;

(j) The fire chief or his designee or fire official have the authority to allow open burning where there is no other practical, safe, and/or lawful method of disposal.

(k) Fires set at the direction of law enforcement agencies or courts for the purpose of destruction of controlled substances and legend drugs seized as contraband. This does not include antineoplastic agents.

(l) Disposal of "wood waste" as defined in § 7-201. Priming materials used to facilitate such burning as wood waste and vegetation are limited to #1 or #2 grade fuel oil. Burning of wood waste shall require an "air curtain destructor" or other approved device. Debris pit with debris to be burned shall not exceed the height of the pit wall, must be no less than two hundred feet (200') away from any other combustible materials including structures and forest lines and an onsite inspection conducted by the fire chief, his designee, or the fire official is required. Any burn pile exceeding the size described in subsection (d) of this section will be considered a commercial burn.

(m) Exceptions (a), (c), and (d) above are allowed with no permit requirements but shall adhere to the following:

(i) Piles shall not exceed the size of three feet (3') in diameter and two feet (2') in height.

(ii) Only non-treated wood waste no larger than three inches (3") in diameter not foreign to the burning site shall be burned.

(iii) Burning will not be allowed when wind velocity is over ten (10) miles per hour.

(iv) A responsible adult shall attend the fire at all times.

(v) Fire shall be completely out before the fire site is left alone.

(vi) Means of extinguishment shall be provided at all times. Extinguishment method must be suitable for the fire load and size to completely extinguish the fire.

(vii) At no point shall the fire become a nuisance to others by smoke, ash, or other debris traveling to a neighboring area.

(viii) Any violation of the above rules and regulations will be viewed as reckless burning and can result in immediate extinguishment of the fire by either the fire department for safety reasons or the responsible party. Violations of the above rules could result in fines and penalties.

(m) The fire chief or his designee or fire official shall have the authority to permit or prohibit open burning not specifically addressed herein.

(n) Open burning allowed under the above provisions, shall meet the requirements of the fire code; and be permitted under the conditions approved by the fire department, unless otherwise stated. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, Ord. #2013-22, Jan. 2014, and Ord. #2019-04, March 2019 ***Ch3_9-3-19***)

7-222. <u>Fire lanes on private property, devoted to public use</u>.

(1) The fire lanes referred to in § 503 of the <u>International Fire Code</u> shall be as established by the fire chief and the codes director.

(2) Fire lanes shall be provided for all buildings that are set back more than one hundred fifty feet (150') (45.75 m.) from a public road or exceed thirty feet (30') (9.14 m.) in height and are set back more than fifty feet (50') (15.25 m.) from a public road. However, this provision may be modified by the fire inspector when the building is protected throughout with an approved automatic sprinkler system.

(3) Fire lanes shall be not less than twenty feet (20') (6.1 m.) of unobstructed width, able to withstand live loads of fire apparatus and have a minimum of thirteen feet six inches (13' 6") (4.1 m.) of vertical clearance. An approved turnaround for fire apparatus shall be provided where an access road is a dead end and is in excess of one hundred fifty feet (150') (45.8 m.) in length. The turnaround radius shall have a minimum centerline radius of fifty feet (50') (15.3 m.). The grade of the fire lane shall not exceed six percent (6%) in any direction. Exceptions to this requirement shall be permitted for T or Y turnaround arrangements and turnaround arrangements other than a cul-de-sac when acceptable to the fire inspector.

(4) Fire lanes shall be marked with signs adjacent to the curb and pavement markings reading "Fire Lane--No Parking," visible from the normal lane of traffic, and painted yellow or white, or in such other manner as is approved by the fire inspector.

(5) A maximum distance of fifty feet (50') (15.3 m.) alternating between signs and pavement markings shall be required along the entire length of the

fire lane. Placement of signs and pavement markings are subject to approval of the fire inspector. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-223. Obstruction of fire protection equipment. It shall be unlawful to place or keep any post, fence, vehicle, growth, trash, storage or other material or thing near any fire hydrant, fire department connection or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the fire department from gaining immediate access and operation to said equipment or hydrant. A minimum three foot (3') clear space with access shall be maintained around the circumference of the fire hydrants except as otherwise required or approved by the fire chief or his designee or fire official. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-224. Key box. The fire official shall have the authority to require a key box to be installed in an accessible location where access to or within a structure or area is difficult because of security. The key box shall be of a type approved by the fire official and contain the keys necessary to gain access as required by the fire department. The owner or operator of the building shall immediately notify the fire official, and provide new keys, when a lock is changed or re-keyed. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-225. Manual fire alarm box covers. The fire official may approve and shall have the authority to require listed manual fire alarm box covers or listed double-action pull stations to be installed where manual fire alarm systems are susceptible to malicious false alarms. When required, manual fire alarm box covers shall be transparent or red in color with a transparent face to permit the manual fire alarm box to be visible. The cover shall also display operating instructions. Box covers which emit a local alarm signal without initiating the manual fire alarm system are acceptable when all normal building occupants are trained in the operation of the boxes and fire reporting procedures. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-226. Protection of gas equipment. (1) Guard posts or other means approved by the fire official shall be provided to protect gas meters, piping and appurtenances where subject to physical damage or where vehicle traffic is normally expected at the site.

(2) Guard posts shall be not less than three feet (3') (0.9 m) from the equipment and spaced not more than four feet (4') (1.2 m) on center and a minimum of thirty inches (30") (762 mm) in height and shall resist a force of

twelve thousand (12,000) (53.378N) applied thirty inches (30") above the driving surface.

(3) Protective measures may be required and shall be approved by the fire official or building official. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-227. Fire department connection. Every new fire department connection for water-based fire protection systems shall be provided with a locking cap or caps of type approved by the fire official. On existing systems, the cap shall be installed within one (1) year of passage of this chapter. The owner of the building where such system is located shall be responsible for notifying the fire department when inspection, testing, or maintenance of any such fire protection equipment is performed. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-228. Combustible mulch. Combustible mulch shall not be applied or maintained within two feet (2') of any building around entire exterior perimeter, except one (1) and two (2) family dwellings, buildings with exterior walls and exterior wall coverings constructed of noncombustible materials. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-229. Automatic fire sprinkler system. Buildings, occupancies, and parking structures. An approved automatic fire sprinkler system shall be provided for all new and renovated buildings of five thousand (5,000) square feet of gross floor area or more. All new or renovated educational or institutional occupancies shall be provided with an automatic fire sprinkler system regardless of the gross floor area limit. The following provisions shall apply under this subsection:

(1) Renovated buildings shall be defined as construction to the building that is greater than fifty percent (50%) of the estimated cost of reconstructing the entire structure.

(2) Occupancies shall be classified in accordance with chapter 3 of the International Building Code.

(3) Any addition to an existing building, which brings the gross floor area to five thousand (5,000) square feet or more shall cause the entire building to meet the requirements of this section.

(4) Where automatic sprinkler protection is determined to increase the hazard to the property or occupants to be protected, other automatic extinguishing systems appropriate for the hazard shall be provided.

(5) Any automatic fire sprinkler system provided as a requirement of this section or otherwise installed shall be supervised in accordance with the International Building Code.

(6) Automatic extinguishing systems and appurtenances shall be installed, tested, inspected and maintained in accordance with National Fire Protection Association standards.

(7) Where these requirements conflict with the International Building Code, International Fire Code, or any state or federal requirement, the more stringent requirement shall apply.

(8) Parking structures are exempt from the provisions of this subsection except when the following conditions apply:

(a) The parking structure is defined as closed within International Building Code definitions and thereby requires mechanical ventilation.

(b) The parking area is located within or under an occupied building.

(c) Free standing parking structures allowed this exemption must have fire department stand pipe connections available on all floors at a distance not to exceed two hundred fifty feet (250') from any point. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, Ord. #2013-22, Jan. 2014, and Ord. #2014-10, May 2014, and amended by Ord. #2015-09, May 2015)

7-230. Safeguarding construction, alteration, and demolition operations. For the purpose of prescribing minimum safeguards for construction, alteration, and demolition operations in order to provide reasonable safety to life and property from fire during such operations, NFPA 241, Standards for Safeguarding Construction, Alteration and Demolition Operations, Appendix B Referenced Publications, 2000 edition with any subsequent amendments or revisions that may be added, or as replaced by any later editions, as prepared by the National Fire Prevention Association, Inc., is hereby adopted by reference and included herein as part of this code. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-231. Premises identification. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (4") high with a minimum stroke of 0.5 inch.

Multi-tenant buildings provided with secondary exits to the exterior or exit corridor, shall be provided with tenant identification by business name. This identification shall be Arabic numerals or alphabet letters and contrast with their background. Letters or numbers shall be a minimum of two inches (2") high and be located at sixty inches (60") above the bottom of the door.

(Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

CHAPTER 3

LIFE SAFETY CODE

SECTION

7-301. Life safety code adopted.
7-302. Application.
7-303. Equal applicability.
7-304. Enforcement of chapter.
7-305. Board of adjustments and appeals.
7-306. Modifications.
7-307. Violations.
7-308. Penalties.
7-309. Definitions

7-301. Life safety code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-502, et seq., and for the purpose of prescribing regulations governing the design, operation, and maintenance of buildings and other structures for safety to life from fire and similar emergencies, the NFPA 101, Life Safety Code, 2003 edition with any subsequent amendments or revisions that may be added, or as replaced by any later editions, as prepared by the National Fire Protection Association, is hereby adopted by reference and included herein as part of this code. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 one (1) copy of said NFPA 101, Life Safety Code has been filed with the recorder and is available for public use and inspection. Said NFPA 101, Life Safety Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. The NFPA 101, Life Safety Code, chapter 33, referenced publications, of the National Fire Protection Association shall be the latest editions available by the National Fire Code Subscription Service. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-302. Application. The provisions of the codes adopted by reference in § 7-301 shall govern the manner in which:

(1) The codes are applied to new construction and existing buildings;

(2) Occupancies and types of construction are classified for the purpose of determining minimum code requirements;

(3) The minimum requirements of the codes may be modified to permit the use of alternate materials or methods of construction.

(4) Where, in any specific case, there is a conflict between this code and another adopted code the most applicable shall govern. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-303. Equal applicability. The provisions of the NFPA 101, Life Safety Code shall apply equally to both public and private property, and it shall apply to all structures and their occupancies, except as otherwise specified. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-304. Enforcement of chapter. The NFPA 101, Life Safety Code herein adopted by reference shall be enforced by the fire chief of the city, or his duly authorized representative. Any other persons so authorized by the city administrator or his designee to make inspections shall be designated as a "fire inspector." The fire chief or his designee, or fire inspector shall be authorized to inspect all property within the city and any future area that shall be annexed to the city. The fire chief or his designee and the fire inspector shall be authorized to issue summons, citations, written notices and take any action required to remove or abate any situation that poses an immediate threat to life and/or property. The fire inspector shall be authorized to issue written notices for code violations. The authority having jurisdiction shall be authorized to require the submittal of drawings and specifications for review and approval; and insure all life safety conditions are satisfactory prior to authorizing the issuance of a certificate of completion or occupancy. The authority having jurisdiction shall be authorized to grant an extension of up to thirty (30) days time limit to correct violations upon proof and receipt of written request not less than three (3) days prior to expiration of notice. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-305. Board of adjustments and appeals. The City of La Vergne Construction Board of Adjustments and Appeals shall hear any filed appeal and the established laws, ordinances, and rules regarding such board shall govern. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-306. Modifications. The fire chief or his designee may recommend to the board of mayor and aldermen modifications of the provisions of the NFPA 101, Life Safety 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 modifications when granted or allowed shall be contained in an amendment to this code or a resolution of the board of mayor and aldermen. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-307. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the NFPA 101, Life Safety Code hereby adopted,

or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-308. Penalties. (1) Any person violating any of the provisions of this chapter, the NFPA 101, Life Safety Code or the conditions of any permit issued hereunder, shall be served by the authority having jurisdiction with a summons, citation or written notice stating the nature of the violation, and providing up to thirty (30) working days time limit for the satisfactory correction thereof.

(2) The offender shall, within the time period stated in such notice, permanently cease all violations as prescribed by the fire official. Any permit issued hereunder shall be void until such time as the violation is corrected.

(3) Any person who shall continue any violation beyond the time provided for in § 7-308(1), shall be guilty of a misdemeanor and such violation may be punishable by a penalty not to exceed five hundred dollars ($500.00).

(4) Any person violating any of the provisions of this chapter shall become liable to the city for expense, loss or damage occasioned by the city personnel or equipment by reason of such violation. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

309. Definitions. (1) Wherever the word "jurisdiction" is used in the NFPA 101, Life Safety Code, it shall be held to mean the City of La Vergne, Tennessee.

(2) Wherever the term "authority having jurisdiction" is used in the NFPA 101, Life Safety Code, it refers to the fire chief or his designee, or fire inspector.

(3) "Person" is any individual, partnership, firm, corporation, company, association, joint stock company, trust, estate, political subdivision, an agency, authority, commission, or department of the United States, or of the State of Tennessee, or any other legal entity, or their legal representative, agent, or assigns. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

CHAPTER 4

BLASTING REGULATIONS

SECTION

7-401. Blasting code adopted.
7-402. Permit required.
7-403. Blasting permit fees.
7-404. Amendment to storage requirements of NFPA 495.
7-405. Amendment to hours of blasting.
7-406. Blasting code available in recorder's office.
7-407. Violations.

7-401. Blasting code adopted. Pursuant to the authority granted by Tennessee Code Annotated, and for the purpose of regulating the use and storage of blasting materials the National Fire Protection Association section 495, 1996 edition and the State of Tennessee Blasting Standards Act of 1975, as recorded in the document, "Tennessee Blasting Laws Annotated" 1995 edition, issued by the Division of Fire Protection, Department of Commerce and Insurance, are hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the blasting code. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-402. Permit required. A permit must be applied for and approved prior to the bringing of explosives or explosive materials onto a job site. If any rules or regulations of the adopted code are violated the fire official may at his discretion revoke such permit. The permit will be issued by the city's fire official's office, and will be good only for the site issued and is not transferable. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-403. Blasting permit fees. The blasting permit fee will be one hundred dollars ($100.00) per permit. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-404. Amendment to storage requirements of NFPA 495. NFPA 495 is hereby amended to read: No overnight storage of any blasting materials will be allowed within the corporate limits of the City of La Vergne. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-405. Amendment to hours of blasting. NFPA 495 is hereby amended to read: If blasting other than between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday, blaster must receive written permission from the

fire official's office of the City of La Vergne. All persons blasting inside the corporate limits of the City of La Vergne must give at least a four (4) hour notice prior to blasting to the fire official's office of the City of La Vergne. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-406. Blasting code available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the blasting code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-407. Violations. It shall be unlawful for any person, company, group or corporation to violate or fail to comply with any provision of the blasting code as herein adopted by reference and modified. (Ord. #2006-05, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

CHAPTER 5

FIRE DEPARTMENT FALSE ALARMS

SECTION

7-501. Purpose and intent.
7-502. Definitions.
7-503. False alarms prohibited.
7-504. False alarms--fines--notifications.
7-505. No liability of city.
7-506. Severability.

7-501. Purpose and intent. The ordinance codified in this chapter is adopted for the purpose of reducing the number of false fire alarms to which the fire department is expected to respond. (Ord. #2006-5, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-502. Definitions. (1) "Alarm company " means the business by any person, firm, partnership, corporation, association, organization, company, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed in or on any building, structure or facility.

(2) "Alarm agent" means any person employed by, working for, representing, or subcontracted by an alarm company.

(3) "Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of a fire to which the fire department is expected to respond.

(4) "Alarm user" means a person(s), firm, partnership, corporation, association, organization, company, or other entity in control of a premise where an alarm system located.

(5) "Audible alarm" means an alarm system or device that generates an audible sound.

(6) "Calendar year" means a twelve (12) month period beginning January 1st and ending December 31st every year.

(7) " Central alarm station" means a system in which the operation of electrical protection circuits and devices are signaled automatically to, recorded at, or maintained and serviced from a place of business having trained alarm operators in attendance at all times.

(8) "City" means the City of La Vergne, Tennessee.

(9) "False alarm" means activation or transmission of any alarm signal caused by human error, mechanical or electronic malfunction, negligence of the alarm user or alarm user's employee, whether or not the exact cause of the alarm activation is determined, or any other activation or transmission of any

alarm signal where no fire exists. Severe weather, power outages, transmission line malfunctions, acts of God, malicious acts of persons not under the control of the alarm user, or any other cause clearly beyond the control of the alarm user will be considered in determining if an alarm activation was false and whether or not any occurrence, fine, warning or other punitive action will be taken against the alarm user as provided for by this chapter.

(10) "Fire chief" means the Fire Chief for the City of La Vergne or his designee.

(11) "Fire department" means the City of La Vergne, Tennessee Municipal Fire Department.

(12) "Notice" means written notice given by personal service upon the addressee, or given by the United States Postal Office, postage paid, to the addressee's last known mailing address.

(13) "Permittee" means any person, firm, partnership, corporation, association, organization, company, or other entity issued an alarm permit by the city.

(14) "Person" means a natural person, or a firm, partnership, corporation, association, organization, company, or other entity.

(15) "Protected premises" means any building, structure, or facility where an alarm system is installed to signal the occurrence of any fire to which the fire department is expected to respond. (Ord. #2006-5, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-503. False alarms prohibited. It is unlawful for any person to knowingly activate an alarm system for the purpose of summoning the fire department except if such person knows or suspects that there is an actual fire on the protected premises. (Ord. #2006-5, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-504. False alarms--fines--notifications. (1) Any alarm user permittee who has more than three (3) false alarms within a calendar year at a single location will be assessed a fifty dollar ($50.00) fine per false alarm plus a three hundred dollar ($300.00) fee per fire department apparatus, police department vehicle that responds to the false alarm.

(2) The fifty dollar ($50.00) fine plus the three hundred dollar ($300.00) fee per police department vehicle shall be paid to the City of La Vergne within thirty (30) days from the date of the invoice requesting payment of the fine and fees.

(3) The three hundred dollar ($300.00) fee per fire department apparatus shall be paid to the fire department within thirty (30) days from the date of the invoice requesting payment of the fees.

(4) The fire chief or his designee shall notify the alarm user, in writing, of each instance where the fire department has recorded a false alarm. The alarm user shall have the opportunity within fourteen (14) days from the date

of mailing or personal delivery to submit a report or meet with the fire chief or his designee for the purpose of showing cause as to whether circumstances exist to warrant voiding the false alarm recordation. The fire chief or his designee shall review the alarm user's report and/or meet with the alarm ser and issue a written finding to the alarm user as to whether or not the false alarm record will be voided. The finding of the fire chief or his designee shall be final. (Ord. #2006-5, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-505. **No liability of city**. The city assumes no liability for any defects in the operation of any alarm system or signal line system, for any failure or neglect of any person associated with the installation, operation or maintenance of any alarm system, for any failure or neglect of any alarm user, for the transmission or receipt of alarm signals or any failure or neglect to respond upon receipt of an alarm from any source. (Ord. #2006-5, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-506. **Severability**. If any provision, clause, sentence, paragraph, section, or part of this chapter or application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter in the application of such provision to other persons or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstance involved. It is hereby declared to be the legislative intent of the city council that this chapter would have been adopted had such unconstitutional or invalid provisions, clause, sentence, paragraph, section or part thereof not been included. (Ord. #2006-5, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

CHAPTER 6

FIREWORKS

SECTION

7-601. Purpose.
7-602. Definition of terms.
7-603. Permit required.
7-604. Permit fee.
7-605. Privilege licenses required.
7-606. Permissible types of fireworks.
7-607. Conditions for sale and use permissible items.
7-608. Retail sale of permissible items--time limitations--exceptions.
7-609. Public displays--permits--regulation.
7-610. Regulations governing storing, locating or display of fireworks.
7-611. Unlawful acts in the sale, handling or private use of fireworks.
7-612. Seizure and destruction of fireworks.
7-613. Penalty for violation.
7-614. Exceptions to application.
7-615. Permissible dates and times of discharge.
7-616. Discharge on other dates.
7-617. Discharge on city property prohibited.
7-618. Compliance with applicable laws and standards required.
7-619. Removal of debris required.
7-620. Violations related to discharge.

7-601. Purpose. The purpose of this chapter is to provide an ordinance for regulation of the manufacture, sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of La Vergne, Tennessee setting certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (Ord. #2006-5, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-602. Definition of terms. As used in this chapter, the following terms shall have the meaning ascribed to them herein in accordance with Tennessee Code Annotated, § 68-104-101, unless clearly indicated otherwise.

(1) "Distributor" means any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a retailer, wholesaler, or any person who receives, brings, or imports any fireworks of any kind, in any manner into the City of La Vergne, except to a holder of a manufacturer's, distributor's or wholesaler's permit issued by the state fire marshal and the La Vergne City Administrator or his designee.

(2) "D.O.T. Class C Common/1.4G fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class C Common/1.4G fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles.

(3) "Manufacturer" means any person engaged in the making, manufacture or construction of fireworks of any kind within the City of La Vergne.

(4) "Permit" means the written authority of the city administrator or his designee issued under the authority of this chapter.

(5) "Person" means, any individual, firm, partnership or corporation.

(6) "Retailer" means any person engaged in the business of making retail sales of firework at specified times during the year as provided herein.

(7) "Sale" means an exchange of articles of fireworks for money and also includes the barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, co-partnership, or one (1) or more individuals.

(8) "Special fireworks" means all articles of fireworks that are classified as Class B/1.3G explosives in the regulation of the United States Department of Transportation and includes all articles other than those classified as Class C. (Ord. #2006-5, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-603. Permit required. Any person, corporation or business entity desiring to sell fireworks as defined in Tennessee Code Annotated, § 68-104-108 shall first secure and obtain any and all necessary permits and comply with any and all rules and regulations set forth in Tennessee Code Annotated, § 68-104-101 and all following code sections pertaining to fireworks thereinafter stated including all provisions through Tennessee Code Annotated, § 68-104-116 to the extent the same are not in conflict with the further provisions of this chapter. (Ord. #2006-5, April 2006, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-604. Permit fee. The fee for the permit provided in § 7-603 of this chapter shall be established by the La Vergne Zoning Ordinance article VIII, section 8.040, and the permit shall be valid for the duration as defined in the La Vergne Zoning Ordinance article IV, section 4.030, paragraph F. (Ord. #2009-4, June 2009, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-605. Privilege licenses required. The issuance of permits provided for herein shall not replace or relieve any person of state, county or municipal privilege licenses as now or hereafter provided by law. Permittees shall comply with the City of La Vergne Fireworks Permit requirements on file with the fire

official. (Ord. #2006-5, April 2006, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-606. Permissible types of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of La Vergne, or ship into the City of La Vergne, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class 5 Common/1.4G fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations. (Ord. #2006-5, April 2006, April 2006, as replaced by Ord. #2012-14, Aug. 2012, and Ord. #2013-22, Jan. 2014)

7-607. Conditions for sale and use permissible items. No permissible articles of common fireworks, shall be sold, offered for sale, or possessed within the City of La Vergne, or used within the city, unless it is properly named and labeled to conform to the nomenclature of allowed fireworks and unless it is certified an "common fireworks" on all shipping cases and by imprinting on the article or retail container "D.O.T. Class C Common/1.4G fireworks," such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. The Fire Marshal of the State of Tennessee regulations relative to the possession and sale of fireworks, their storage and safety requirements, are here and now incorporated by reference herein, together with the National Fire Protection Association (NFPA 1123 and 1126), and the International Fire Code, all in full force and effect within the city. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-608. Retail sale of permissible items--time limitations--exceptions. Permissible articles of fireworks may be sold at retail to residents of the City of La Vergne and used within the City of La Vergne from June 20 through July 5, and December 20 through January 2 of each year only, except that "fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five one-hundredths (25/100) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers, containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or perchlorate sales may not exceed five (5) grams of composition per item),

emergency flares, matches, trick matches, and cigarette loads, the sale and use of which shall be permitted at all times. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014, and Ord. #2018-21, Nov. 2018 ***Ch3_9-3-19***)

7-609. <u>Public displays--permits--regulation</u>. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of La Vergne shall include display shells designed to be fired from mortars and display set pieces of fireworks classed by the regulation of the United States Department of Transportation as "Class B Special/1.3G fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the fire chief or his designee, police chief, and the city administrator, or their designees, and applied for and received a permit for such displays issued by the state fire marshal. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to holders of a permit for public fireworks displays shall be confined to holders of a distributors permit only. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-610. <u>Regulations governing storing, locating or display of fireworks</u>. (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within one hundred feet (100') of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "fireworks--no smoking" in letters not less than four inches (4") high. No fireworks shall be sold at retail at any location where paints, oils or vanishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchaser, must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other

ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision.

(3) All firework devices sold under a duly issued permit must be located not less than three hundred feet (300') from any gasoline dispensing pump.

(4) As permits are temporary for a period not to exceed thirty (30) days, the permit shall state any sales site must be at all times free from litter and debris, including the termination date of authorized selling periods. Violation of this provision, for which citation may issue, may give cause to refuse issuance of another permit for a period not to exceed three (3) years. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-611. <u>Unlawful acts in the sale, handling or private use of fireworks</u>. (1) It is unlawful to:

(a) Offer for retail sale or to sell any fireworks to children under the age of sixteen (16) years or to any intoxicated or irresponsible person. Sales to minors shall be made in accordance with the state law;

(b) Explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school or within five hundred feet (500') of where fireworks are stored, sold or offered for sale, or within five hundred feet (500') of a gasoline retailer or wholesale storage facility;

(c) Ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people.

(2) All items of fireworks which exceed the limits of D.O.T. Class C Common/1.4G fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from shipment into, manufacture, possession, sale or use within the City of La Vergne for any purpose. This subsection shall not effect display fireworks authorized by this chapter.

(3) Fail to comply with the city's zoning ordinance relative to minimum front building line set back requirements set forth in the city's zoning ordinance. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-612. <u>Seizure and destruction of fireworks</u>. (1) The La Vergne City Administrator, or designee, may seize as contraband any fireworks other than "Class C common fireworks" or "special fireworks" for public displays, which are sold, displayed, used or purchased in violation of this chapter.

(2) Before any seized fireworks may be destroyed:

(a) If the owner of such seized fireworks is known, the city administrator or his designee shall give notice by registered mail or personal service to such owner, of the city's intention to destroy such

seized materials. Such notice shall inform the owner of the owner's right to a hearing. Upon the request of the owner, the city administrator or his designee shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

(b) If the identity of the owner of any seized fireworks is not known to the city, the city administrator or his designee shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such seizure, and of the city's intention to destroy such fireworks. The notice shall be published once each week for three (3) consecutive weeks and if no person claims ownership of the fireworks within ten (10) days of the date of the last publication, the fire official may proceed to destroy the fireworks. If the owner does claim the fireworks within the time specified, a hearing as set out in this subsection shall be held. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-613. Penalty for violation. Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding state authorized maximum limits. In addition, the City of La Vergne may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-614. Exceptions to application. Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, of the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes only from the state fire marshal, and after approval of the county agricultural agent of the county in which the fireworks are to be used and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the City of La Vergne. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-615. <u>Permissible dates and times of discharge</u>. The discharge of common fireworks within the corporate limits of the City of La Vergne shall be restricted to the following dates and times:

July 2 through July 5	9:00 A.M. until 10:00 P.M.
December 29 through January 1	9:00 A.M. until 10:00 P.M.

Notwithstanding the foregoing, the dates of July 4 and December 31 of each year, the discharge of common fireworks will be restricted to the hours of 9:00 A.M. and 11:00 P.M. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014, and amended by Ord. #2018-21, Nov. 2018 ***Ch3_9-3-19***)

7-616. <u>Discharge on other dates and times prohibited; special permits</u>. (1) The discharge of all common fireworks within the corporate limits of the City of La Vergne on times and dates not authorized by this chapter are strictly prohibited.

(2) Requests for special permits to discharge common fireworks within the corporate limits of the City of La Vergne during times and dates not authorized by this chapter may be submitted for consideration to the city administrator or his designee. All requests must be submitted no less than five (5) days prior to the scheduled event. The special authorization required shall be reviewed based upon, but not limited to, the following criteria:

(a) The risk to public health and safety;

(b) Any financial obligations incurred by the city to provide adequate protection from possible hazards;

(c) The location of the event;

(d) Any possible disturbance of the peace violations in the City of La Vergne;

(e) Whether the display will serve the common good of the citizens of the City of La Vergne.

(f) There are no more than two (2) requests from each residential address in La Vergne within a one (1) year time frame.

(3) Any and all requests which fail to serve the general good of the community may be denied at the discretion of the city administrator based upon recommendations from the fire chief or his designee. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-617. <u>Discharge on city property prohibited</u>. No fireworks shall be discharged or carried onto property of the City of La Vergne, including, without limitation, any or all of the city's public parks; provided, however, that the provisions of this section shall not apply to events sponsored by the City of La Vergne. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-618. Compliance with applicable law and standards required. Any and all discharges of fireworks within the corporate limits of the City of La Vergne must comply with Tennessee Code Annotated, § 68-104-211, and NFPA 1123, and the most recently adopted version of the International Fire Code by the City of La Vergne. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

7-619. Removal of debris required. Any parties or individuals who discharge fireworks within the corporate limits of the City of La Vergne either for public display or personal use must clear any debris from public roadways or rights-of-way after the discharge of the fireworks. If any such debris is not removed, such parties or individuals may be cited under § 16-107 of the La Vergne Municipal Code and/or Tennessee Code Annotated, § 39-14-502. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

6-620. Violations related to discharge. It shall be unlawful and a misdemeanor for any person to ignite, discharge, use or explode any common fireworks within the corporate limits of the City of La Vergne except in accordance with the provisions of this chapter. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2012-14, Aug. 2012, and replaced by Ord. #2013-22, Jan. 2014)

CHAPTER 7

LA VERGNE FIRE DEPARTMENT VOLUNTEER DIVISION

SECTION

7-701. Establishment, creation and management.
7-702. Qualifications.
7-703. Authority.
7-704. Uniforms.
7-705. Workers' compensation and liability insurance.

7-701. Establishment, creation and management. There is hereby created within the City of La Vergne in the fire department, a volunteer fire division. Each member shall be appointed by the fire chief of the department and shall serve as long as in good standing or a submission of resignation is submitted to the fire chief. The assistant fire chief of operations shall oversee this division. The division of volunteer firefighters may also be also be managed by an appointed captain if applicable. This division shall augment and aid the full time force of the City of La Vergne Fire Department. (as added by Ord. #2014-09, June 2014)

7-702. Qualifications. The same qualifications shall apply to the volunteer division as to entry level qualifications for firefighter positions as stated in the job description that is on file in the human resources department of the City of La Vergne. (as added by Ord. #2014-09, June 2014)

7-703. Authority. All volunteer division personnel shall be give the same power to act in the capacity of a firefighter position with the only exception as volunteer personnel will not be able to operate a fire suppression apparatus, staff or support vehicle until the age of twenty-one (21) is achieved. This is a requirement by the City of La Vergne's liability insurance carrier. (as added by Ord. #2014-09, June 2014)

7-704. Uniforms. The assistant chief of operations of the City of La Vergne Fire Department shall establish the uniform ensemble for the volunteer division with prudent use of budgetary means to secure. All volunteer personnel shall be issued personal protective clothing (turnout gear) to conform with department policy and NFPA requirements and shall maintain according to policy. All uniforms and turnout gear shall be returned to the City of La Vergne upon exit from the volunteer division. (as added by Ord. #2014-09, June 2014)

7-705. Workers' compensation and liability insurance. The City of La Vergne shall provide for coverage for each member of the volunteer division while in the performance of official duties. No emergency responses or any

installed emergency visual or audible equipment or devices on personally owned vehicles shall be authorized by the City of La Vergne or the any member of the City of La Vergne Fire Department. All personnel must have in place a minimum of three hundred thousand dollars ($300,000.00) liability insurance coverage on personally owned vehicles used for response inside the corporate limits of the City of La Vergne. (as added by Ord. #2014-09, June 2014)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER

1. INTOXICATING LIQUORS--PACKAGE STORES.
2. INTOXICATING LIQUORS--HOTELS, RESTAURANTS, ETC.
3. BEER.

CHAPTER 1

INTOXICATING LIQUORS--PACKAGE STORES

SECTION

8-101. Definitions.
8-102. Scope of chapter.
8-103. State laws to be complied with.
8-104. Content of application for certificate of compliance.
8-105. Processing applications.
8-106. Applicant to appear before board of mayor and aldermen; duty to give information.
8-107. Action on application.
8-108. Restrictions on operators of retail liquor stores.
8-109. City privilege license.
8-110. Regulation of sales.
8-111. Location restrictions.
8-112. Retail store restrictions.
8-113. Inspection fees.
8-114. Restriction on number of stores.
8-115. Time period.
8-116. Violations and penalties.

8-101. Definitions. Whenever used in this chapter unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverages" and "intoxicating liquor" 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, beer or wine, where the latter two (2) contains an alcoholic content of five (5) percent by weight or less.

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

(2) "Retail sale" or "sale at retail" means a sale to a consumer, or to any person for any purpose other than for resale.

(3) "Retailer" or "dealer" means any person who sells at retail any beverage covered by this ordinance.

(4) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, Title 57, chapter 5.

(5) "Person" means any natural person as well as any corporation, partnership, firm or association.

(6) "City council" refers to the governing body of the City of La Vergne, Tennessee.

(7) "City" means the City of La Vergne, Tennessee.

(8) "City administrator" means the City Administrator for the City of La Vergne.

(9) "City recorder" means the City Recorder of the City of La Vergne.

(10) "Domicile" means and includes present and continuous actual physical residence with an established permanent residence.

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

8-102. Scope of chapter. It shall be unlawful to store, transport, sell, give away, distribute, possess and receive alcoholic beverages in the city unless provision of this chapter and the laws of the State of Tennessee and the State Rules and Regulations of the Alcoholic Beverage Commission have been complied with.

Nothing in this chapter regulates the transportation, storage, sale, distribution, possession or receipt of or tax upon any beverage of alcoholic content of five (5%) by weight or less, and no ordinance related thereto is modified by this chapter. (1994 Code, § 8-102)

8-103. State laws to be complied with. No person, firm, corporation, association or partnership shall engage in the retail liquor business unless all the necessary state licenses and permits have been obtained. (1994 Code, § 8-103)

8-104. Content of application for certificate of compliance.

(1) Before any person shall receive a license for the establishment of an off-premise consumption retail liquor sales outlet, the applicant shall make application for a certificate as required by Tennessee Code Annotated, § 57-3-208. The application for the certificate shall be in writing and shall be filed with the city recorder giving the following information:

(a) For an individual applicant:

(i) Name, date of birth, and address of the applicant;

(ii) Number of years residence in the state;

(iii) Occupation or business and length of time engaged in such occupation or business;

(iv) Whether or not the applicant has been convicted of a felony within the past ten (10) years;

(v) If employed, the name and address of the employer;

(vi) If in business, the kind of business and location thereof;

(vii) The name of any person who will have any interest, direct or indirect, in the business of the applicant or in the profits thereof and the nature and extent in character thereof.

(a) If applicant is a partnership:

(i) Partnership name and address;

(ii) Names, dates of birth, and addresses or all partners indicating separately those partners who are general partners and those who are limited partners, if any and, for each partner, showing the name of such partner, such partner's profit sharing percentage in the partnership, and the business or occupation of each such partner;

(iii) A copy of the partnership agreement shall be attached as an exhibit to the application;

(iv) Whether any general partner has been convicted of a felony within the past ten (10) years;

(b) If applicant is a corporation:

(i) Name of the corporation, state of incorporation and date of qualification to do business in Tennessee if the state of incorporation is other than Tennessee;

(ii) List of names, dates of birth, and addresses of all officers of the corporation;

(iii) List of names, dates of birth, and addresses of all directors of the corporation;

(iv) List of the names, addresses, percent of outstanding stock owned or controlled and business or occupation of each stockholder of the corporation owning ten (10) percent or more of the outstanding stock of each class of said corporation;

(v) Whether any officer or director has been convicted of a felony within the past ten (10) years;

(vi) A copy of the charter of the corporation shall be attached as an exhibit to the application.

(c) Additional information from all applicants:

(i) The location of the proposed facility for the sale of alcoholic beverages;

(ii) The name, date of birth, and address of the owner and the amount of rent to be paid;

(iii) The amount of money invested or to be invested and the source of funds to be used, and, if borrowed, the name of the person or bank from whom borrowed; the name of the bank with which the applicant does business; the name of any person who is aiding the venture financially, either by loan or endorsement;

(iv) The name of any person who will have any interest, direct or indirect, in the business of the applicant or the profits thereof and the nature and extent and character thereof other than those persons previously identified.

(2) The application required herein shall be verified by the oath of the applicant and in the event the applicant is a partnership, it shall be verified by the oath of the managing general partner or if the applicant be a corporation, it shall be verified by the oath of the president of the corporation.

Each application for a certificate of compliance for off-premise consumption shall pay a non-refundable application fee of two hundred and fifty dollars ($250.00) to the city recorder.

(3) The applicant must complete and return with the application any documents or forms that the chief of police or city attorney may require in order to conduct an investigation on the applicant. (1994 Code, § 8-104)

8-105. <u>Processing applications</u>. (1) Applications for the renewal of the certificate of compliance will be processed in the same manner and under the same conditions as a new application. Certificates issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by payment of the certificate application fee. This fee shall be remitted to the city recorder on or before January 1st of each year. If the certificate holder fails to pay the fee by January 10th of each year, the certificate of compliance will be revoked and a certification thereof will be forwarded to the Alcoholic Beverage Commission of the State of Tennessee and the license to said application shall be considered to have been canceled and revoked.

(2) Application for employee's permit to serve as an employee in the place of business of a retail liquor store under the provision of <u>Tennessee Code Annotated</u>, § 57-3-204 shall submit the name of such employee to the Chief of Police of the City of La Vergne. (1994 Code, § 8-105, modified)

8-106. <u>Applicant to appear before board of mayor and aldermen; duty to give information</u>. An applicant for a certificate of compliance may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (1994 Code, § 8-106)

8-107. <u>Action on application</u>. (1) Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of

mayor and aldermen within thirty (30) days of the date each application was filed.

(2) Upon the filing of an application for a new license or for the transfer of an existing license to a new location, the city administrator, or his designee, shall promptly and conspicuously post the proposed premises with a clean, neat and legible sign, approximately twenty-four (24) inches by thirty-six (36) inches, stating the name and address of the applicant, the nature of the application, and the date that the application is to be originally considered by the board of mayor and aldermen, said sign to be placed on the premises at least ten (10) days prior to the date on which the application is to be originally acted upon by the board.

(3) The applicant shall place a notice in a newspaper of general circulation concerning the applicant's intent to seek a license from the Tennessee Alcoholic Beverage Commission. The notice shall contain such information as is prescribed in the Rules of the Tennessee Alcoholic Beverage Commission and shall appear for at least three (3) consecutive issues immediately preceding the date that the applicant applies to the City of La Vergne for a certificate of compliance.

(4) The board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen. (1994 Code, § 8-107)

8-108. <u>Restrictions on operators of retail liquor stores</u>. (1) No person, member of a firm, corporation, or partnership shall operate a retail store for the sale of alcoholic beverages herein defined if he is a holder of a public office, either appointive or elective, or who is a public employee either national, state, city or county. It shall be unlawful for any such person to have any interest in such 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) <u>Age limit</u>. No retailer or any employee thereof engaged in any activity covered by this section shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer or employee to permit any such person under said age on his place of business to engage in the sale of alcoholic beverages. Further, it shall be unlawful for any minor to misrepresent his age in purchasing or attempting to purchase alcoholic beverages.

(3) <u>Employees</u>. No retailer shall employ in the sale, storage, or distribution of alcoholic beverages any person who within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude or of any law regulating intoxicating liquors, and in the case an employee should be so convicted, he shall immediately be discharged.

(4) <u>Transfer or sale of license</u>. The holder of a license may not sell, assign, or transfer such license to any other person, and said license shall be good and valid only for the calendar year in which the same was issued.

(5) Only one (1) establishment to be operated by retailer. No retailer shall operate directly or indirectly, more than one place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise.

(6) Restrictions cumulative. The provisions of this section shall be in addition to any other restrictions or conditions which may be contained elsewhere in the provisions of this chapter. (1994 Code, § 8-108, as replaced by Ord. #2012-27, Jan. 2013)

8-109. City privilege license. The privilege license shall be levied on the business in accordance with the provisions of the "Business Tax Act" as enacted by the 87th General Assembly of Tennessee, by Chapter 387 of the Public Acts of 1971, as amended. (1994 Code, § 8-109)

8-110. Regulation of sales. (1) Hours of sales on weekdays. No retail store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock a.m. (8:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Monday through Saturday.

(2) Sales on Sundays. No retail store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of ten o'clock A.M. (10:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Sunday.

(3) Sales on holidays. No retail store shall sell, give away, or otherwise dispense alcoholic beverages on the following holidays: Christmas, Thanksgiving, or Easter.

(4) Sales to minors. No retailer shall sell or give away any alcoholic beverages to any person under twenty-one (21) years of age, and it shall be unlawful for any such minor to purchase any alcoholic beverages. Also, it shall be unlawful for any person to present false evidence that he has attained the age of twenty-one (21) years of age.

(5) Keeping an unsealed bottle or container. No retailer of alcoholic beverages shall keep or permit to be kept upon his premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(6) Sales to person intoxicated. No retailer shall sell or give away any alcoholic beverages to any person who is drunk, nor shall any retailer sell or give away any alcoholic beverages to any person accompanied by a person who is drunk.

(7) Sales on credit. No holder of a permit for the sale of alcoholic beverages for retail shall sell, deliver or cause, permit or procure to be sold or delivered any alcoholic beverages on credit.

(8) Unstamped merchandise. No retailer shall own, store, or possess upon the premises any unstamped merchandise required by laws of the State of Tennessee to have affixed thereto revenue stamps of the state.

(9) Political advertising. No political advertising of or for any candidate or party by poster, handout card, matches or other similar election campaign material shall be placed or dispensed on the premises of a retail liquor store.

(10) Consumption on premises. No alcoholic beverages shall be sold for consumption or consumed on the premises of a retail package seller. (1994 Code, § 8-110, as replaced by Ord. #2018-14, July 2018 ***Ch3_9-3-19***)

8-111. Location restrictions. (1) It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the City of La Vergne unless said location of the liquor store shall be on Murfreesboro Road or Waldron Road / Parthenon Parkway, in either Zone C-2, C-3, or C-4 as appears on the official zoning map of the City of La Vergne on the date of application.

(2) In no event will a store be allowed when it is 500 feet or nearer to any church, school, public playground, public institution or commercially zoned, licensed daycare center, measured in a straight line between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the church, school, public playground, public institution or commercially zoned, licensed daycare center.

(3) In no event will a store be allowed when it is 1 mile or nearer to any other retail liquor store, measured in a straight line between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the existing retail liquor store. Provided, further, that no certificate of compliance shall be issued by the mayor and/or city council in any case until the location of said proposed liquor store has been approved by the city council.

(4) As a further limitation on the location of retail liquor stores for the sale of alcoholic beverages, no location for same shall be approved when in the opinion of the city council, expressed by a majority vote thereof, the operation of such liquor store at the location would be inimical to the public interest. (1994 Code, § 8-111)

8-112. Retail store restrictions. (1) No retail liquor store shall be located except on the ground floor and it shall have one main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereinafter provided. When a retail store is located on the corner of two (2) streets, such retail store may maintain a door opening on each of the public streets. All buildings shall be in compliance with the state regulations for the operation of retail liquor stores.

(2) No form of entertainment, including pin ball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which intoxicating liquors are sold.

(3) All liquor stores shall be of a modern, permanent type construction and no store shall be located in a mobile home or other movable type building. All liquor stores shall have night lighting surrounding the outside of the premises and shall be equipped with a burglar alarm system on the inside of the premises. The minimum square footage of the liquor store retail floor space shall be 1,800 square feet. All retail sales shall be confined to the premises of the structure and no curb service shall be permitted nor shall drive-thru windows be permitted. (1994 Code, § 8-112)

8-113. Inspection fees. (1) The City of La Vergne hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city.

(2) Collection. The inspection fee shall be collected by the wholesaler and transmitted to the city recorder not later than the 20th day of each month for the preceding month. Each wholesaler making sales to licensees located within the corporate limits of the City of La Vergne, Tennessee, shall furnish the municipality a monthly report, which report shall contain a list of the alcoholic beverages sold in each licensee located within the municipality, the wholesale price of the alcoholic beverages sold to each licensee, the amount of the inspection fee due and such other information as may be required by the municipality. The inspection fees collected by the wholesalers from the licensee or licensees located within the municipality shall be paid to the municipality at the time the monthly report is made. Wholesalers collecting and remitting the inspection fee to the municipality shall be entitled to reimbursement for this collection services a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the municipality.

(3) The failure of the wholesaler to collect or timely report and/or pay the inspection fees collected shall result in a penalty in the amount of ten percent (10%) of the inspection fee due the municipality, which shall be payable to the municipality.

(4) The municipality shall have the authority to audit the records of the wholesalers and/or licensees subject to the provisions of this chapter in order to determine the accuracy of the reports of the wholesalers and/or licensees. (1994 Code, § 8-113)

8-114. Restriction on number of stores. Not more than one (1) license shall be issued for each seven thousand five hundred (7,500) persons or fraction thereof within the corporate limits of the city, according to the last

certified federal or state census, whether regular or special. (1994 Code, § 8-114)

8-115. Time period. Any applicant who has obtained a certificate of compliance from the mayor and a majority of the city council, as provided herein above, must, within six (6) months open a store for the retail sale of alcoholic beverages to the public or said certificate of compliance will be automatically revoked by the passage of said time, and a certification thereof will be forwarded immediately to the Alcoholic Beverage Commission of the State of Tennessee and the license issued to said application shall be considered to have been canceled and revoked. (1994 Code, § 8-116)

8-116. Violations and penalties. Any violation of the provisions of this ordinance shall constitute a misdemeanor and shall, upon conviction be punishable by a fine of not less than fifty ($50.00) dollars. Upon conviction of any person under this ordinance, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with petition that all licenses be revoked, pursuant to the provisions of Tennessee Code Annotated, §§ 57-3-101 to and including 57-3-110 and the rules and regulations of said commission. (1994 Code, § 8-117)

CHAPTER 2

INTOXICATING LIQUORS--HOTELS, RESTAURANTS, ETC.

SECTION

8-201. Scope of chapter.
8-202. Definitions.
8-203. Location restrictions.
8-204. Privilege taxes.
8-205. Prohibited practices.
8-206. Prohibited sexual or pornographic conduct.
8-207. Violations; penalty.
8-208.--8-212. Deleted.

8-201. Scope of chapter. It shall be unlawful to store, transport, sell, give away, distribute, possess and receive alcoholic beverages in the city unless the provisions of this chapter, title 57, chapter 4 of the Tennessee Code Annotated (T.C.A.), and the State Rules and Regulations of the Alcoholic Beverage Commission have been complied with. (1994 Code, § 8-201, as replaced by Ord. #2019-21, July 2019 ***Ch3_9-3-19***)

8-202. Definitions. The definitions set forth in Tennessee Code Annotated, § 57-4-102, as the same may be amended from time to time, are incorporated herein as if copied verbatim in their entirety. (1994 Code, § 8-202, as replaced by Ord. #2019-21, July 2019 ***Ch3_9-3-19***)

8-203. Location restrictions. (1) For the purposes of this section, the following words, terms and phrases are hereby defined. Terms not hereby defined shall have their standard dictionary definition or such as the context may imply.

(a) School. A school as referred to herein shall be a public or private institution, including kindergarten, where regular classes are conducted under the supervision of a state licensed teacher or instructor, including schools or colleges where specialized subjects are taught to students of all ages. Such term shall include vocational, medical, law, art, cosmetology, and other institutions where similar special subjects are taught.

(b) Church. A church as referred to herein shall be a building or property where church services are regularly held at least one (1) day per week and the premises are occupied for church purposes only.

(c) Licensed daycare center. A licensed daycare center as referred to herein shall be any home or business that is licensed by the State of Tennessee to provide daycare services to children. The licensed

daycare center may exist in either a residential or commercial zoning district.

(d) Public playground or park. A public playground or park as referred to herein shall be any property owned by the City of La Vergne and operated by the parks and recreation department. For the purposes of this chapter, the front boundary of Bicentennial Park, located behind the police department at 5093 Murfreesboro Road, begins at the rear of the parking area and impound lot behind the police department building.

(2) Any restaurant applying for a license to sell alcoholic beverages for consumption on the premises in the City of La Vergne shall be located in either Zone C-2, C-3, or C-4 as appears on the official zoning map of the City of La Vergne. In no event will a restaurant be allowed when it is within two hundred feet (200') of any school, church, licensed daycare center or public playground or park. This distance is to be measured in a straightline from the closest point of the building from which the alcoholic beverages will be sold for consumption on the premises, and the nearest point on the building of the school, church or licensed daycare center, or in the case of a public playground or park from the closest point of the applicant's building to the closest point in the nearest boundary of the public playground or park, however, if the applicant leases space in a shopping center or strip mall the two hundred foot (200') distance shall be measured in a straightline from the closest point of the nearest outside wall of the applicant's leased space to the closest point of the building of the school, church or licensed daycare center. These distance regulations shall not apply to a school, church or licensed daycare center that is located on property in a shopping center or strip mall.

(3) Any hotel or club applying for a license to sell alcoholic beverages for consumption on the premises in the City of La Vergne shall be located in either Zone C-2, C-3, or C-4 as appears on the official zoning map of the City of La Vergne. In no event will a hotel or club be allowed when it is within five hundred feet (500') of any school, church, licensed daycare center or public playground or park. This distance is to be measured in a straightline from the closest point of the building from which the alcoholic beverages will be sold for consumption on the premises, and the nearest point on the building of the school, church or licensed daycare center, or in the case of a public playground or park from the closest point of the applicant's building to the closest point in the nearest boundary of the public playground or park, however, if the applicant leases space in a shopping center or strip mall the five hundred foot (500') distance shall be measured in a straightline from the closest point of the nearest outside wall of the applicant's leased space to the closest point of the building of the school, church or licensed daycare center. These distances regulations shall not apply to a school, church or licensed daycare center that is located on property in a shopping center or strip mall. (1994 Code, § 8-203, as replaced by Ord. #2019-21, July 2019 ***Ch3_9-3-19***)

8-204. Privilege taxes. (1) Pursuant to the authority of Tennessee Code Annotated, § 57-4-301(b)(2), the city hereby levies the following privilege taxes, to be paid annually for municipal purposes as provided herein, upon every person who engages in the business of selling alcoholic beverages for consumption on the premises where such beverages are sold:

(a) Private club - $300.00

(b) Hotel and motel - $1,000.00

(c) Convention center - $500.00

(d) Restaurant, according to seating capacity, on licensed premises:

(i) 40 through 74 seats - $650.00

(ii) 75 through 125 seats - $750.00

(iii) 126 through 175 seats - $925.00

(iv) 176 through 225 seats - $975.00

(v) 226 through 275 seats - $1,100.00

(vi) 276 seats and over - $1,200.00

(e) Wine-only restaurant, according to seating capacity, on licensed premises:

(i) 40 through 125 seats - $120.00

(ii) 126 through 175 seats - $150.00

(iii) 176 through 225 seats - $160.00

(iv) 226 through 275 seats - $180.00

(v) 276 seats and over - $200.00

(f) Community theater - $300.00

(g) Theater - $300.00.

(h) Caterers - $500.00 (including any restaurant or hotel that engages in the business of selling alcoholic beverages for consumption at locations other than the licensed premises).

(i) Limited service restaurant, based on the gross sales of prepared food:

(i) At least 30% but not more than 50% of gross sales - $2,000.00

(ii) At least 20% but not more than 30% of gross sales - $3,000.00

(iii) At least 15% but not more than 20% of gross sales - $4,000.00

(iv) 0% but not more than 15% of gross sales - $5,000.00

(2) A restaurant or hotel that also operates a catering business shall be required to pay both the caterer privilege tax and the restaurant or hotel privilege tax.

(3) The taxes imposed pursuant to § 8-203(1) shall be first payable on the date the alcoholic beverage commission issues a liquor-by-the-drink license to the person engaging in the privilege and shall be prorated from said date of

issuance until the next following January 1, at which time, a full year's taxes shall then be due and immediately payable.

(4) If the initial privilege tax or any subsequent annual privilege tax is not paid within thirty (30) days of when the tax is due, such tax shall be deemed delinquent, and interest on the amount due shall accrue at the rate of one and one-half percent (1.5%) per month until paid. Such interest shall accrue on the first day of each month following the date of delinquency.

(5) All taxes and interest imposed by this section may be collected as other taxes payable to the city.

(6) Should the licensee also hold a beer permit issued by the city, a failure to pay taxes under this section shall constitute grounds for suspension or revocation of the beer permit. Repeated violations of this section will constitute grounds for permanent revocation of a beer permit. (1994 Code, § 8-204, as replaced by Ord. #2019-21, July 2019 ***Ch3_9-3-19***)

8-205. Prohibited practices. It shall be unlawful for any person, firm or corporation holding a license to sell alcoholic beverages for consumption on the premises to violate the rules, regulations, and prohibited practices set forth in Tennessee Code Annotated, §§ 57-4-201 and 57-4-203, which code sections are incorporated herein as if copied verbatim in their entirety. (1994 Code, § 8-205, as replaced by Ord. #2019-21, July 2019 ***Ch3_9-3-19***)

8-206. Prohibited sexual or pornographic conduct. Tennessee Code Annotated, § 57-4-204, as the same may be amended from time to time, is incorporated herein as if copied verbatim in its entirety. The La Vergne Police Department is hereby authorized and directed to conduct investigations into alleged violations of said code section. The La Vergne Police Department shall report any such violations to the alcoholic beverage commission as authorized by Tennessee Code Annotated, § 57-4-204(e). (1994 Code, § 8-206, modified, as replaced by Ord. #2019-21, July 2019 ***Ch3_9-3-19***)

8-207. Violations; penalty. Any violation of the provisions of this chapter shall be punishable by the penalty provided under the general penalty clause of this code. Upon conviction of any person under this chapter, the city court clerk shall immediately certify said conviction directly to the Tennessee Alcoholic Beverage Commission. Each day a violation is allowed to continue shall constitute a separate offense. (1994 Code, § 8-207, as replaced by Ord. #2019-21, July 2019 ***Ch3_9-3-19***)

8-208.--8-209. Deleted. (1994 Code, § 8-208--8-213, as deleted by Ord. #2019-21, July 2019 ***Ch3_9-3-19***)

CHAPTER 3

BEER[1]

SECTION

8-301. Beer board established.
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8-325. Conflicts.

8-301. Beer board established. There is hereby established a beer board to be composed of five (5) members appointed by the mayor, who shall also have authority to remove any appointive member at his/her pleasure without cause. Members may be removed by the board of mayor and aldermen at the request of the chairman of the board or committee and the city recorder, if the member is absent from two (2) or more scheduled meetings in a row. A chairman shall be elected annually by the board from among its members. All members

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[1]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).

of the beer board shall serve without compensation. A member shall be appointed for a four (4) year term. Members shall be eligible for re-appointment. Vacancies shall be filled by an appointment by the mayor with the affirmation of the board of mayor and aldermen to serve out the remainder of the vacating member's term. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011, and Ord. #2011-26, Oct. 2011)

8-302. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold a regular monthly meeting on the third Tuesday of each month at 6:00 P.M. When there is other business to come before the beer board, a special meeting may be called by the chairman provided that reasonable notice can be given to the public and each member. The board may recess a meeting at any time to another time and place. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

8-303. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-304. 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 treated as not being present for the total number of votes available. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-305. 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 city in accordance with the provisions of this chapter. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-306. Beer business lawful but subject to regulation. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive, and/or manufacture beer of alcoholic content of not more than five percent (5%) by weight or any other beverage of like alcoholic content within the corporate limits

of the City of La Vergne, subject to all the regulations, limitations, and restrictions provided by Tennessee Code Annotated, title 57, chapter 5, or other laws of the state and subject to the rules provided herein. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-307. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars ($250.00). Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-308. Definitions. The following words, terms and phrases are hereby defined as follows and shall be interpreted as such throughout this chapter. Terms not hereby defined shall have their standard dictionary definition or such as the context may imply.

(1) "Beer." Beer as referred to herein shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight.

(2) "Church." A church as referred to herein shall be a building or property where church services are regularly held at least one (1) day per week and the premises are occupied for church purposes only.

(3) "Clerk." A person working in a capacity to sell beer directly to consumers for off-premises consumption.

(4) "Licensed daycare center." A licensed daycare center as referred to herein shall be any home or business that is licensed by the State of Tennessee to provide daycare services to children. The licensed daycare center may exist in either a residential or commercial zoning district.

(5) "Public playground or park." A public playground or park as referred to herein shall be any property owned by the City of La Vergne and operated by the parks and recreation department. For the purposes of this chapter, the front boundary of Bicentennial Park, located behind the police department at 5093 Murfreesboro Road, begins at the rear of the parking area and impound lot behind the police department building.

(6) "Premises." A building, portion of a building, or property that is utilized for a particular business enterprise.

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

(8) "Responsible vendor program." The program under which vendors and clerks can be certified.

(9) "School." A school as referred to herein shall be a public or private institution, including kindergarten, where regular classes are conducted under the supervision of a state licensed teacher or instructor, including schools or colleges where specialized subjects are taught to students of all ages. Such term shall include vocational, medical, law, art, cosmetology, and other institutions where similar special subjects are taught.

(10) "Shopping center or strip mall." A shopping center or strip mall as referred to herein shall be any group of at least three (3) stores and/or restaurants located in a commercial zoning district that share a common parking lot.

(11) "Vendor." A person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption.

(12) "Wholesaler." Any person who sells beer to retailers. Such term shall include a distributor, manufacturer, brewer or brewery branch making sales of beer directly to retailers or as otherwise defined by Tennessee Code Annotated, § 57-5-101. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-309. Licenses for certain premises prohibited. (1) No license shall be issued to sell beer or other beverages coming within the provisions of this chapter in violation of any provision of the state law, or within two hundred feet (200') of any school, church, licensed daycare center, or public playground or park. This distance is to be measured in a straightline from the closest point from the building from which the beer will be sold, and the nearest point on the building of the school, church or licensed daycare center, or in the case of a public playground or park from the closest point of the applicant's building to the closest point in the nearest boundary of the public playground or park, however, if the applicant leases space in a shopping center or strip mall the two hundred foot (200') distance shall be measured in a straightline from the closest point of the nearest outside wall of the applicant's leased space to the closest point of the building of the school, church or licensed daycare center. These distance regulations shall not apply to a school, church or licensed daycare center that is located on property in a shopping center or strip mall.

(2) If the application is for a new location and there is a question regarding the distance regulations, the applicant for a beer permit shall submit with his application a measurement made by a licensed surveyor and the distance certified as being correct. The work of the surveyor shall be checked and verified by the codes department.

(3) Any business possessing a valid permit to sell beer prior to the effective date of the ordinance comprising this chapter may continue to have a valid permit to sell beer.

(4) Any business that comes into non-compliance with the distance requirements of this section because of the construction or location of a school, church, licensed daycare center, public playground or park, after a valid permit has been issued, may continue to possess a permit to sell beer.

(5) When a business not conforming with the provisions of this section is discontinued or abandoned for a period of thirty (30) consecutive days, then no application for a business not in conformance with the provisions of this section shall thereafter be approved.

(6) No license shall be issued to sell any beverage coming within the provisions of this chapter for consumption on the premises where the primary or principal business carried on is the sale of groceries, drugs, candies, soda fountain drinks, merchandise, or commodities, other than serving meals and lunches; provided, nothing in this section shall prevent sale or consumption in dining rooms and lunch rooms of stores where such rooms are separated and distinct from other departments.

(7) No license shall be issued to sell any beverage coming within the provisions of this chapter in a room or place used to carry on the business of playing at pool or billiards except in the front of such rooms or place which is separated from the other part of the building by a partition or wall and where there is a regularly licensed restaurant or lunch room occupying such room separated from the game room by partitions or walls.

(8) The judgment of the beer board on such matters shall be final except as same is subject to court review. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-310. <u>Application for and issuance or refusal of permit</u>. Before any permit is issued by the recorder, the applicant shall file with the La Vergne Beer Board a sworn petition in writing establishing the following facts which are hereby made conditions of any permit issued. The making of any false statement by an applicant for a permit in his application shall be sufficient ground, reason, and cause for the revocation of the permit issued to him by the beer board.

(1) The application shall designate the location of the premises where the business will be conducted and shall name the owner or owners of such premises.

(2) The applicant shall not engage in the sale of such beverages except at the place or places for which the La Vergne Beer Board has issued a license or licenses to said applicant.

(3) No sale of such beverage shall be made except in accordance with the following conditions:

(a) No permit shall be issued authorizing on-premises consumption of beer unless the place of business for which a permit for on-premises consumption sells food prepared for on-premises consumption as a normal, regular and integral part of its every day

activities and unless such food is available for purchase during the same hours that alcoholic beverages are sold for on-premises consumption.

(b) If the application is for a license to sell at hotels or motels, sales for consumption on the premises will be made only at tables and to persons in guest rooms.

(c) If the application is for a license in a club or lodge, such applicant must be a regularly incorporated club or lodge operating under a charter and bylaws, in which the officers are elected by the regular membership. Members of said organization must pay a substantial membership or initiation fee. The purpose of the organization and existence of said club shall be for purposes other than the sale of beverages covered by this chapter.

(d) If the application is for a license to sell for consumption off the premises, no sale shall be made for consumption on the premises. Furthermore, no consumption shall be allowed on the premises or property of the applicant. All such beverage shall be kept for sale in original sealed containers and all beverage shall be carried out in its original packaging or packaged for carry-out in a bag or box.

(4) No sale shall be made to a person under the age of twenty-one (21). No sale shall be made to a person who is obviously intoxicated. The applicant shall not permit minors or any disorderly or disreputable person or persons previously convicted for violation of the liquor laws to loiter around or frequent his place of business.

(5) The applicant shall not allow any liquors or beverages of alcoholic content greater than five percent (5%) by weight to be brought into his premises for consumption therein unless said applicant has a current license from the alcoholic beverage commission to sell alcoholic liquors or beverages with an alcoholic content greater than five percent (5%) for consumption on the premises.

(6) Neither the applicant nor any person employed by him in the distribution, sale, or manufacture of beer shall have been convicted of any violation of the laws of the State of Tennessee against the sale, manufacture, possession, or transportation of beer of intoxicating liquors or any misdemeanor or felony within the past ten (10) years.

(7) The applicant shall conduct the business in person for himself. If the applicant is acting as agent, the application shall state the person for whom the applicant intends to act.

(8) The applicant shall not distribute or sell beverages in bottles or other containers unless such containers shall bear a label or cap showing the name of the manufacturer thereof.

(9) The applicant shall not purchase beer except from manufacturers or distributors licensed to manufacture or distribute such beverage in this state.

(10) The La Vergne Beer Board shall consider each application filed and grant or refuse the license according to its best judgment of the facts and

circumstances. The action of the La Vergne Beer Board in granting or refusing a license shall be final except as same is subject to court review.

(11) A background check shall be performed on the applicant when a beer permit application is submitted for a permit.

(12) If an application for a beer permit has been considered and denied by the beer board, the beer board shall not consider another application from the same individual to sell beer at the same location until the expiration of a ninety (90) day period. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011, as replaced by Ord. #2019-11, June 2019 ***Ch3_9-3-19***)

8-311. <u>Minors</u>. It shall be unlawful for any person under the age of twenty-one (21) years of age to purchase or obtain any alcoholic beverage where such beverage is sold. It shall be unlawful for any parent or guardian to permit any person under the age of twenty-one (21) years of age of which he/she may be parent or guardian to violate any provision of this section. It shall be unlawful for any person to misrepresent his/her age for the purposes of purchasing or obtaining alcoholic beverages from any premises where a permit has been issued and alcoholic beverages are sold. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-312. <u>Suspension of license</u>. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. The beer board shall have the power to revoke any permits, upon notice to the permittee and hearing thereon, for any violation of any provision of this chapter. Notice of a hearing shall be sent by the city recorder to the permittee and postmarked at least five (5) business days prior to the hearing, stating the particular violations of this chapter upon which the hearing will be held. The board shall examine or cause to be examined, any witnesses, books, records, and may take such testimony as proof as is required and shall have the power to compel the presence of witnesses by the issuance of subpoenas for the purpose of obtaining all information required for such hearing. The permittee shall be entitled to representation by counsel and the board shall keep a full and complete transcript of the proceeding before the board. The board shall make public the date and time of such hearing. At the hearing the permit holder or any other interested person may have the right to present evidence as to the facts of said violation and any other fact which may aid the board in determining whether this chapter has been violated and the purposes of the permit have been abused. At the hearing, if the board determines that a witness or other information necessary for the just determination of the issue before the board is not present, the board may recess the hearing to a date and time certain not to exceed thirty (30) days to compel the attendance of witnesses or production of information required for such hearing. If the board determines that the terms and conditions of the permit have been violated, the board shall then proceed to enact such penalties as may be required under § 8-313 of this

chapter. The board shall also have the power to revoke or suspend any permits if the permittee:

(1) Operates a disorderly place;

(2) Permits boisterous or disorderly conduct on the premises;

(3) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude;

(4) Permits minors to congregate about the premises;

(5) Sells or transfers the equipment or assets of the business authorized by a permit to another for the purpose of conducting the business on the same premises, unless the permittee notifies the beer board in writing immediately upon such sale or transfer, and shall surrender his permit within thirty (30) days after said sale or transfer. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-313. Penalties; revocation and suspension period. (1) If it is determined by the beer board that a violation of this chapter has occurred under the procedures provided for in § 8-312, then the board shall revoke any permit previously granted, for a period of not less than one (1) year. If, however, it should appear to the board that such violation should not result in an outright revocation, but that the permittee should have his/her permit suspended, then the board is specifically authorized to suspend such permit for a period of time said revocation or suspension shall be in effect, and further said revocation or suspension shall preclude the issuance of a permit to any other person or persons, partnerships or corporations.

(2) During the revocation or suspension period, no beer shall be sold or consumed on the premises and the permit holder shall post a notice provided by the city setting forth the grounds for the suspension or revocation of the beer permit.

(3) No permit or license shall be revoked on the grounds the holder of any permit, or any person working for the holder of such permit, sells alcoholic beverages to a person over the age of eighteen (18) if such person exhibits an identification, false or otherwise, indicating their age to be twenty-one (21) or over, if the appearance as to maturity is such that the holder of the permit or his employee might reasonably presume said person to be of such age and is unknown to such person making the sale. Said permit may be suspended for a period not to exceed ten (10) days. However, this shall not be construed in any way to relieve the said person from liability for making such an illegal purchase as provided for in § 8-311.

(4) Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage

commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

It is the duty of the permittee to advise the beer board of participation in the responsible vendor program and provide proof thereof at the time of the hearing.

(5) If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-607, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sep. 2008, and replaced by Ord. #2010-26, Jan. 2011)

8-314. Licenses may be issued to hotels, motels, clubs, and lodges. A license may be issued for the sale of any beverage coming within the provisions of this chapter in hotels, motels, clubs, or lodges, subject to all the limitations and restrictions contained in Tennessee Code Annotated, title 57, chapter 5, and subject to the limitations and restrictions provided by this chapter. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-315. Posting and duration of permit. (1) The permit shall be posted in a conspicuous place in the place of business.

(2) If a business ceases operation for any reason, then the permit issued shall automatically expire. 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.

(3) For the purposes of this chapter, "ceases operation" shall mean that the permit holder ceases to operate the business for which the permit was obtained for a period of sixty (60) days or more. A business that sustains damage due to a fire or an act of God that requires the business to close for renovation shall not be considered to have ceased operations as long as the business owner begins operating the business within twelve (12) months. If the business temporarily ceases operation during a beer permit suspension or revocation period, this shall not be considered to have ceased operations as long as the business owner begins operating the business after the suspension or revocation has ended.

(4) If a permit holder shall die, then the permit shall expire upon death of the permittee and shall not descend by the laws of testate or intestate

devolution, provided, however, that the legal representative of the estate shall be allowed to continue the operation of said business for a period of sixty (60) days from the death of said permittee, during which time the legal representative, or a successor to the business, shall be allowed to apply for a permit without interruption of the business.

(5) In the event of a change of ownership, the permit issued shall automatically expire. The permit holder shall notify the beer board in writing immediately upon said change of ownership. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

8-316. <u>Filing, investigation of, and action on applications</u>. Applications for license shall be filed with the recorder who shall make an investigation. The police department may assist in the investigation. Upon completion of said investigation, the recorder shall submit the application and recommendations to the La Vergne Beer Board at its next meeting. The beer board shall consider the application and shall endorse its action thereon. If approved, the recorder shall issue a license. Any applicant making a false statement in the application shall forfeit the permit and shall not be eligible to receive any permit for a period of ten (10) years. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-317. <u>Sales prohibited during certain hours and on certain days</u>. No sale of any beverage coming within the provisions of this chapter shall be made between the hours of 3:00 A.M. and 5:00 A.M. Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. Sunday. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011, and Ord. #2015-34, Jan. 2016 ***Ch3_9-3-19***)

8-318. <u>Prohibited acts--by permit holders, agents or employees</u>. It is unlawful for any beer permit holder or his agent or employee:

(1) To knowingly employ any person convicted for the possession, sale, manufacturing or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years;

(2) To allow any person under eighteen (18) years of age to loiter or congregate about the premises. The burden of ascertaining the age of minor persons shall be on the permit holder and his agent or employee. When a minor is seated at a table, there shall be no beer served at the table unless such minor is accompanied by one or both of his parents or legal guardian, but only if served in conjunction with food;

(3) To knowingly allow beer to be passed from a lawful purchaser or possessor to a minor for consumption on the premises of the permit holder. The burden of ascertaining the age of persons who may not lawfully possess beer shall be on the permit holder and his agent or employee;

(4) For a retailer to knowingly sell to a lawful purchaser who purchases beer for consumption by a minor. The burden of ascertaining the age of persons who may lawfully possess beer shall be on the permit holder and his agent or employee;

(5) Make or allow any sale to any intoxicated, insane or otherwise mentally incapacitated person;

(6) Allow any intoxicated person to loiter on or about his premises;

(7) For a retailer or wholesaler, to store beer in any place other than the address listed on the permit;

(8) To sell or allow to be sold on the premises of the permittee beer to any person using food stamps issued pursuant to state or federal law for the purchase of such beer;

(9) To allow gambling or gambling devices of any kind or description contrary to state law on the premises;

(10) To allow solicitation for purposes of prostitution on the premises;

(11) To allow or engage in any criminal activity on the premises.

(12) To knowingly employ any person that does not have the legal right to work in the United States. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

8-319. <u>Privilege tax</u>. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars ($100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of La Vergne, 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. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

8-320. <u>Civil penalty in lieu of suspension</u>. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a non-refundable civil penalty not to exceed the maximum penalty permitted pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 57-5-108, which is incorporated herein by reference as though the same were fully set forth herein.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars ($1,000.00) for each offense of making or permitting to be made any sales to minors, or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within

that time, the revocation or suspension shall be deemed withdrawn. Payment of the civil penalty in lieu of suspension or revocation by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

8-321. Changes of location for a valid beer permit. If a business changes its location, the permit issued shall automatically expire The permit holder shall notify the beer board in writing immediately upon said change of location. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

8-322. Wholesalers, distributors, manufacturers--governing law. Wholesalers, distributors, and manufacturers shall be governed by Tennessee Code Annotated, § 57-5-101, any successor statutes, and/or by any other controlling laws and/or rules or regulations promulgated by the State of Tennessee and/or the United States of America. (as added by Ord. #2010-26, Jan. 2011)

8-323. Only sale to permittee authorized. It shall be unlawful for any wholesaler, distributor or manufacturer of beer, or any of their salesmen or representatives, to sell or deliver beer enroute, or from delivery vehicles, to any persons, other than the holders of valid retail beer permits or as otherwise allowed by Tennessee Code Annotated, § 57-5-101, and it shall be the duty of such wholesaler, distributor or manufacturer, their salesmen or representatives, to ascertain whether or not such purchaser is a holder of a valid retail beer permit. (as added by Ord. #2010-26, Jan. 2011)

8-324. Beer permit governing law--amendments. Beer permits shall be governed by existing City of La Vergne, State of Tennessee, or United States of America law, rules, or regulations as amended. From time to time, the parameters of this title may be changed by the City of La Vergne in its sole discretion and/or the laws and/or rules and/or regulations promulgated by the State of Tennessee and/or United States of America may be changed by the State of Tennessee or the United States of America. Every permit shall be governed by the changes in the parameters as described above regardless of when the permit was issued and no property right shall attach to any particular version of the City of La Vergne title, the State of Tennessee law, or United States law. (as added by Ord. #2010-26, Jan. 2011)

8-325. Conflicts. Conflicts with this title and the laws of the State of Tennessee and/or the United States of America shall be resolved in favor of the laws of the State of Tennessee and/or the United States of America. In the event that any of the regulations found within this title are in conflict with the laws

and/or other binding rules and/or regulations promulgated by the State of Tennessee and/or the United States of America, the laws and/or other binding rules and/or regulations promulgated by the State of Tennessee and/or the United States of America shall control. (as added by Ord. #2010-26, Jan. 2011)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

1. PEDDLERS, ETC.
2. CHARITABLE SOLICITORS.
3. TAXICABS.
4. POOL ROOMS.
5. CABLE TELEVISION.
6. WRECKER SERVICES.
7. YARD SALES.
8. SEXUALLY ORIENTED BUSINESS.
9. MOBILE FOOD VENDORS.

CHAPTER 1

PEDDLERS, ETC.[2]

SECTION

9-101. Permit required.
9-102. Exemptions.
9-103. Application for permit.
9-104. Issuance or refusal of permit.
9-105. Appeal.
9-106. Bond.
9-107. Loud noises and speaking devices.
9-108. Use of streets.
9-109. Trespassing.
9-110. Exhibition of permit.
9-111. Enforcement.
9-112. Revocation or suspension of permit.
9-113. Reapplication.
9-114. Expiration and renewal of permit.

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[1]Municipal code references
Building, plumbing, wiring and housing regulations: title 12.
Junkyards: title 13.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Zoning: title 14.

[2]Municipal code references
Privilege taxes: title 5.

9-101. <u>Permit required</u>. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1994 Code, § 9-201)

9-102. <u>Exemptions</u>. The terms of this chapter shall not be applicable 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 bona fide charitable, religious, patriotic or philanthropic organizations, nor to mobile food vendors, including food trucks, canteen trucks or ice cream trucks that are under the provisions of title 9, chapter 9 of the La Vergne Municipal Code. (1994 Code, § 9-202, as replaced by Ord. #2019-22, July 2019 ***Ch3_9-3-19***)

9-103. <u>Application for permit</u>. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

(1) Name and physical description of applicant.

(2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.

(3) A brief description of the nature of the business and the goods to be sold.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A copy of a valid driver's license or state issued identification.

(7) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance and, if so, the nature of the offense and the punishment or penalty assessed therefor.

(8) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(9) At the time of filing the application, a fee of fifty dollars ($50.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1994 Code, § 9-203, modified)

9-104. <u>Issuance or refusal of permit</u>. (1) Each application shall be investigated. The investigator shall report his findings within seventy-two (72) hours.

(2) If as a result of such investigation the applicant's moral reputation and/or business responsibility is found to be unsatisfactory, he will be notified that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the report indicates that the moral reputation and business responsibility of the applicant are satisfactory, he will be issued a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city shall keep a permanent record of all permits issued. (1994 Code, § 9-204)

9-105. Appeal. Any person denied a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor, within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal, and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or 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, § 9-205)

9-106. Bond. Every permittee shall file with the city recorder a surety bond in the form provided by the city running to the municipality in the amount of one thousand dollars ($1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the City of La Vergne and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given. The surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1994 Code, § 9-206, modified)

9-107. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1994 Code, § 9-207)

9-108. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1994 Code, § 9-208)

9-109. Trespassing. It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave.

9-110. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman, codes official or citizen. (1994 Code, § 9-209, modified)

9-111. Enforcement. It shall be the duty of the police department and codes department to see that the provisions of this chapter are enforced. (1994 Code, § 9-210, modified)

9-112. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee 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.

(3) When it is reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (1994 Code, § 9-211)

9-113. <u>Reapplication</u>. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1994 Code, § 9-212)

9-114. <u>Expiration and renewal of permit</u>. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for up to six (6) months. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1994 Code, § 9-213, modified)

CHAPTER 2

CHARITABLE SOLICITORS

SECTION

9-201. Permit required.
9-202. Prerequisites for a permit.
9-203. Application for permit.
9-204. Denial of a permit.
9-205. Exhibition of permit.
9-206. Trespassing.
9-207. Violations.
9-208. Solicitation roadblocks.

9-201. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1994 Code, § 9-301)

9-202. Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer, or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant.

(6) The benefits of the solicitation will be used solely for and by the citizens of La Vergne. (1994 Code, § 9-302)

9-203. <u>Application for permit</u>. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

(1) Name and physical description of applicant.

(2) Complete permanent home address and local address of the applicant.

(3) A brief description of the nature and purpose of the solicitation.

(4) The length of time for which the right to do the solicitation is desired.

(5) A copy of a valid driver's license or state issued identification.

(6) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance and, if so, the nature of the offense and the punishment or penalty assessed therefor.

9-204. <u>Denial of a permit</u>. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1994 Code, § 9-303)

9-205. <u>Exhibition of permit</u>. Permittees are required to exhibit their permits at the request of any policeman, codes official or citizen. (1994 Code, § 9-304, modified)

9-206. <u>Trespassing</u>. It shall be unlawful and deemed to be trespass for any permittee acting under this chapter to fail to leave promptly the private premises of any person who requests or directs him to leave. (1994 Code, § 9-305)

9-207. <u>Violations</u>. Any person violating any provisions of this chapter or making a false or fraudulent statement either in his application for a permit or in the process of making a solicitation shall be subject to the penalty provided in the general penalty clause for this municipal code. In addition to or in lieu of any pecuniary penalty, if a violator has been issued a permit, his permit shall be cancelled and revoked by the court. (1994 Code, § 9-306)

9-208. <u>Solicitation roadblocks</u>. (1) Application to and approval from the board of mayor and aldermen shall be required before the use of a solicitation roadblock is permitted during any solicitation.

(2) The following terms shall apply in the interpretation and application of this section:

(a) "Solicitation roadblock" shall mean the solicitation by any person of money on or in the right of way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in or upon motor vehicles.

(b) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right of way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic.

(3) A roadblock shall not be permitted to be set up for more than a five (5) hour interval and any organization shall not be allowed to hold more than one permit at any given time. At the time of the application, the applicant may choose an alternate date for the roadblock in case of inclement weather. The maximum number of permits that may be issued per calendar year to each organization is two (2). These permits will be issued on a first come-first served basis. If the roadblock is cancelled due to inclement weather, it shall not be counted toward the maximum number of permits allowed during a calendar year.

(4) The roadblock permit shall be issued by the city recorder after approval is given by the board of mayor and aldermen. All roadblock workers must carry a copy of this permit and must exhibit their permit at the request of any policeman or citizen.

(5) All roadblock workers must be at least eighteen (18) years of age and must wear highly visible clothing which must include an orange safety vest.

(6) All organizations conducting a roadblock must place a proper form of notification at each roadblock location to warn motorist of "Roadblock Ahead," and provide a flyer to each contributor.

(7) All organizations conducting a roadblock must remove all signs upon the completion of the roadblock. (1994 Code, § 9-307, modified)

CHAPTER 3

TAXICABS[1]

SECTION

9-301. Taxicab franchise and privilege license required.
9-302. Requirements as to application and hearing.
9-303. Liability insurance or bond required.
9-304. Revocation or suspension of franchise.
9-305. Mechanical condition of vehicles.
9-306. Cleanliness of vehicles.
9-307. Inspection of vehicles.
9-308. License and permit required for drivers.
9-309. Qualifications for driver's permit.
9-310. Revocation or suspension of driver's permit.
9-311. Drivers not to solicit business.
9-312. Parking restricted.
9-313. Drivers to use direct routes.
9-314. Taxicabs not to be used for illegal purposes.
9-315. Miscellaneous prohibited conduct by drivers.
9-316. Transportation of more than one passenger at the same time.

9-301. Taxicab franchise and privilege license required. (1) It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license.

(2) Before a franchise will be granted, the franchisee shall pay a one-time franchise application fee of one hundred dollars ($100.00). Annually thereafter, on or before January 1, the franchisee shall pay a franchise renewal fee of fifty dollars ($50.00) per taxicab registered for operation in the city. It is the duty of the franchisee to provide the number and identifying information for each taxicab operating in the town. All taxicabs and drivers operating under a franchise hereunder must be registered with the town. (1994 Code, § 9-401, modified)

9-302. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and

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[1]Municipal code reference
Privilege taxes: title 5.

address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. Within forty-five (45) days after receipt of an application, the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the board of mayor and aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board of mayor and aldermen shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make application under this section but shall be required to comply with all of the other provisions hereof. (1994 Code, § 9-402, modified)

9-303. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insuror to both the insured and the recorder of the municipality. (1994 Code, § 9-403)

9-304. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1994 Code, § 9-404)

9-305. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless it is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1994 Code, § 9-405)

9-306. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1994 Code, § 9-406)

9-307. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1994 Code, § 9-407)

9-308. License and permit required for drivers. (1) No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police.

(2) A person seeking a taxicab driver's permit must submit an application as herein below provided and submit a one-time taxicab driver application fee of twenty-five dollars ($25.00). Said taxicab driver's permit shall be effective for one (1) year from the date of issuance. A taxicab driver's permit may be renewed on or within ten (10) days of the expiration of the taxicab driver's permit upon the completion of a renewal application and payment of a taxicab driver's renewal fee of ten dollars ($10.00). Failure to renew a taxicab driver's permit within the stated time will require the applicant to apply for a new permit and pay the taxicab driver application fee. (1994 Code, § 9-408, modified)

9-309. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

(1) Makes written application to the chief of police.

(2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.

(3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

(5) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.

(6) Is familiar with the state and local traffic laws. (1994 Code, § 9-409, modified)

9-310. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab

driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1994 Code, § 9-410)

9-311. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1994 Code, § 9-411)

9-312. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to interfere unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1994 Code, § 9-412)

9-313. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1994 Code, § 9-413)

9-314. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1994 Code, § 9-414)

9-315. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise unreasonably disturb the peace, quiet and tranquility of the municipality in any way. (1994 Code, § 9-415)

9-316. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1994 Code, § 9-416)

CHAPTER 4

POOL ROOMS[1]

SECTION

9-401. Prohibited in residential areas.
9-402. Hours of operation regulated.

9-401. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1994 Code, § 9-501)

9-402. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire between the hours of 3:00 A.M. and 5:00 A.M. Monday through Saturday or between the hours of 3:00 A.M. Sunday and 12:00 P.M. (noon) Sunday. (1994 Code, § 9-502, modified)

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[1]Municipal code reference
Privilege taxes: title 5.

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise.

9-501. To be furnished under franchise. Cable television service shall be furnished to the City of La Vergne and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of La Vergne and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.[1] (1994 Code, § 9-601)

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[1]For complete details relating to the cable television franchise agreement see Ord. #94-3, dated May 3, 1994, in the office of the city recorder.

CHAPTER 6

WRECKER SERVICES[1]

SECTION

9-601. Definition of terms.
9-602. Purpose and intent of chapter.
9-603. Wrecker franchise and privilege license requirement.
9-604. Requirements as to application and hearing.
9-605. Liability insurance or bond required.
9-606. Revocation or suspension of franchise.
9-607. Mechanical condition of vehicles.
9-608. Equipment required.
9-609. Inspection of vehicles.
9-610. License and permit for drivers.
9-611. Rotating schedule.
9-612. Use of scheduled service.
9-613. Use of owner-requested services.
9-614. Acceptable response time.
9-615. Revocation or suspension of driver's permit.
9-616. Wreckers not to be used for illegal purposes.
9-617. Miscellaneous prohibited conduct by drivers.
9-618. Schedule of rates and billing procedures.
9-619. Street cleaning.
9-620. Storage of towed vehicles.
9-621. Retrieving of towed vehicles.

9-601. Definition of terms. For purposes of this chapter, the following terms shall be defined as follows:

(1) "Cruising." The driving of a wrecker on the streets, alleys, or public places of the city in a fashion or manner calculated for the purpose of soliciting business.

(2) "Driver." Any person driving a wrecker upon the streets and roads of the city.

(3) "License." A copy of the approved tow rotation application will serve as a wrecker service's license to participate in the scheduled tow rotation monitored by the La Vergne Police Department. Any current wrecker service that has continually provided scheduled tow rotation service for the La Vergne Police Department since January 1, 1990 is considered grandfathered, and exempt from having a tow rotation application on file.

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[1]Municipal code reference
Privilege tax: title 5, chapter 2.

(4) "Number of wrecker services." The number of wrecker services on the scheduled rotation shall be based on the population of the city. One (1) wrecker service will be added to the rotation list for every ten thousand (10,000) people, based on the official census results. A new wrecker service will be added when the population is five thousand one (5,001) into the next ten thousand (10,000) of population.

(5) "Permit." A permit required and issued by the city to a licensee for each wrecker operated by the licensee under the authority of a license. This permit will document that the tow vehicle has passed the annual tow vehicle inspection.

(6) "Rates and charges." Any charges assessed for transporting, towing, or conveying a vehicle by a wrecker and storage of said vehicle.

(7) "Rate card." A rate card issued by the city for display in each wrecker which contains the mandatory rates or charges then in force. A copy of La Vergne Municipal Code § 9-618 will meet the rate card requirement. The purpose of the rate card being required in each tow vehicle is to inform the public of authorized rates that will apply to their vehicle being towed by a City of La Vergne authorized wrecker service.

(8) "Schedule of wrecker services." A list of licensed wrecker services who have applied to the chief of police to be placed on a rotating schedule for towing of unattended or abandoned vehicles or vehicles involved in accidents, custodial arrests, or where operator is unable to operate said vehicle safely. Said members of schedule must provide twenty-four (24) hour service.

(9) "Wrecker." A public motor vehicle constructed on a truck chassis with lifting devices operated by mechanical power and employed or used for the purpose of towing, transporting, conveying, or removing any and all kinds of vehicles which are unable to be or actually are not operated under their own power. (Ord. #2008-10, July 2008)

9-602. <u>Purpose and intent of chapter</u>. It is hereby declared to be the purpose and intent of this chapter to regulate all wreckers, towing services, and wrecker services doing business for the city. The provisions of this chapter shall not apply to a wrecker service located outside the territorial jurisdiction of the city and which occasionally passes through the city. (Ord. #2008-10, July 2008)

9-603. <u>Wrecker franchise and privilege license requirement</u>. It shall be unlawful for any person to engage in the wrecker business unless he has first obtained a wrecker franchise from the city and has a currently effective privilege license. (Ord. #2008-10, July 2008)

9-604. <u>Requirements as to application and hearing</u>. To be eligible for a wrecker franchise, the applicant's storage lot must be located within the city limits of La Vergne. No person shall be eligible for a wrecker franchise if he has a bad character or has been convicted of a felony within the last ten (10)

years. Applications for wrecker franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of wreckers the applicant desires to operate, the makes and models of said wreckers, and such other pertinent information as the chief of police may require. Within ten (10) days after receipt of an application, the chief of police shall make or cause to be made a thorough investigation of the applicant to determine if there is a public need for additional wrecker service and whether or not to grant the franchise for additional service, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional wrecker franchise. (Ord. #2008-10, July 2008)

9-605. Liability insurance or bond required. No wrecker franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to three hundred thousand dollars ($300,000) or that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12, whichever is greater. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days written notice is given by the insuror to both the insured and the recorder of the city. (Ord. #2008-10, July 2008)

9-606. Revocation or suspension of franchise. The chief of police or his designee may revoke or suspend any wrecker franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the wrecker owner or any driver. (Ord. #2008-10, July 2008)

9-607. Mechanical condition of vehicles. It shall be unlawful for any person to operate any wrecker in the city unless such wrecker is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the state motor vehicle law. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide the safety of the public and the continuous satisfactory operation of the wrecker, as described in the wrecker service inspection guidelines provided by the chief of police or his designee to each franchise holder. (Ord. #2008-10, July 2008)

9-608. Equipment required. At the time of application for a license, the chief of police or his designee shall direct that the applicants be furnished in writing a list of such equipment as the chief of police deems minimum equipment, and the licensee shall carry and have available at all times and in good working order such minimum equipment until a new list is furnished the

licensee. Such list of equipment as furnished shall include but may not be limited to fire extinguishers, crowbars, shovels, brooms, axes, flags, and reflecters. (Ord. #2008-10, July 2008)

9-609. Inspection of vehicles. All wreckers shall be inspected at least annually by the chief of police or his designee, to insure that they comply with the requirements of this chapter with respect to mechanical condition, equipment, etc. Inspection, of a tow vehicle, by the Tennessee Highway Patrol may be accepted to meet this requirement after the chief of police or designee reviews the inspection report and confirms the report's findings. (Ord. #2008-10, July 2008)

9-610. License and permit for drivers. No person shall drive a wrecker unless he is in possession of the appropriate state drivers license and a current city permit. No wrecker may be operated as part of the city rotation schedule without a current rate card visibly displayed inside the cab of the wrecker. (Ord. #2008-10, July 2008)

9-611. Rotating schedule. A rotating schedule will be prepared on a calendar year basis by the chief of police, or his designee showing a weekly rotation of each service. This schedule will be amended as services are approved or omitted from the list of scheduled services. An updated copy of the rotation schedule will be presented to each scheduled wrecker service before it becomes effective. (Ord. #2008-10, July 2008)

9-612. Use of scheduled service. Scheduled services will be used exclusively on all abandoned and all unattended vehicles which in the opinion of a duly authorized police officer are in violation of the municipal code. (Ord. #2008-10, July 2008)

9-613. Use of owner-requested services. The choice of the owner or operator will be honored if, in the opinion of the police officer in charge, the owner or operator is competent to make a responsible decision. If, in the opinion of the officer in charge, the owner or operator is unable to make a responsible decision, the scheduled service will be requested. In all cases, however, if in the opinion of the officer in charge, there is sufficient danger due to road hazard or other just cause, the officer in charge may insist on the scheduled service.

9-614. Acceptable response time. Up to three (3) local public service telephone numbers will be made available to the chief of police or his designee for each service. Upon a request for a wrecker, each of these numbers, in order given, will be attempted by the police dispatcher. The dispatcher will allow five (5) rings at each number before going on to the next number. If contact is not made on all three (3) numbers, the next scheduled service will be attempted.

The time of actual contact will be logged on the official radio log of the La Vergne Police Department. Wrecker service response time will be twenty (20) minutes on workdays from 7:30 A.M. until 5:00 P.M., and thirty (30) minutes during off-duty times such as nights, weekends, and holidays. After the designated response time has passed, if the wrecker has not arrived on the scene, the next scheduled service may be summoned. In this event, the original service summoned will not be allowed to make the tow and will receive no compensation for the call. Five (5) missed calls in any one (1) calendar month is justification for elimination from the schedule for a period of six (6) months. The time of contact on the original call that is to be logged on the police log will be used on scheduled calls to determine the rate to be charged. A wrecker service cannot claim a service call fee when notified by the La Vergne Police Department to cancel due to the wrecker service not responding within the response time described within this chapter. (Ord. #2008-10, July 2008)

9-615. Revocation or suspension of driver's permit. The chief of police, or his designee may revoke or suspend any wrecker driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-610. (Ord. #2008-10, July 2008)

9-616. Wreckers not to be used for illegal purposes. No wrecker shall be used for or in the commission of any illegal act, business, or purpose. (Ord. #2008-10, July 2008)

9-617. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any wrecker driver, while on duty, to be under the influence of or to drink any intoxicating beverage or beer; to use profane or obscene language; unnecessarily to blow the automobile horn; or otherwise unreasonable to disturb the peace, quite, and tranquility of the city in any way. (Ord. #2008-10, July 2008)

9-618. Schedule of rates and billing procedures. By the 10th day of each month the wrecker services on the rotation schedule shall submit an invoice to the chief of police for all of the vehicles, that the police department is responsible for, that was towed during the previous month. The invoice shall contain at least the following information:

(1) Date of tow;
(2) Location the vehicle was towed from;
(3) Vehicle make and model; and
(4) The vehicle identification number.

Towing, transporting, and storage rates shall not exceed the following unless written authorization is agreed to by the wrecker service and owner or operator of the vehicle:

(1) Vehicles within the city limits not requiring winch or dolly: $90.00 plus $2.50 per mile.

(2) Vehicles within the city limits requiring rollback: $90.00.

(3) Vehicles within the city limits requiring winch: $45.00 per hook.

(4) Vehicles within the city limits requiring dolly: $45.00.

(5) Storage maximum: $25.00 per day (outside) $40.00 per day (inside if required)

(6) Miscellaneous charges, such as disconnecting drive shafts, changing wheels, use of torch or other cutting equipment, and labor for removing vehicles from unusual places or positions shall be charged at a maximum of $50.00 per hour per person.

(7) Cleaning street: Maximum $40.00

(8) Use of oil dry to clean street: $15.00 per bag.

(9) Wait time: $75.00 per hour after the first hour.

(10) Any city passenger car or pick-up up to one-half ton towed within the city limits, flat rate of $65.00

(11) Service charge: $35.00. (Example: Wrecker service is called to tow a vehicle and is cancelled prior to arrival based on the decision of the vehicle owner or the requesting officer. If the requested wrecker service arrives on the scene and is not permitted to tow the vehicle.)

(12) Gate fee: $30.00. To be charged for release of towed vehicles after business hours. (Ord. #2008-10, July 2008)

9-619. <u>Street cleaning</u>. Wrecker personnel shall be required to remove all debris from the city right-of-way before leaving the scene. (Ord. #2008-10, July 2008)

9-620. <u>Storage of towed vehicles</u>. Vehicles towed for violation of city ordinances requiring storage will be taken to the franchise holder's lot unless otherwise requested by the ranking police officer on the scene. Vehicles and contents on franchise holder's lots are the total responsibility of the franchise holder. This responsibility will begin upon the signing of a "tow-in" form prescribed by the chief of police. A tow slip shall be completed by La Vergne Police personnel for all vehicles towed at the direction of the La Vergne Police Department, especially those that are abandoned, involved in an arrest, have special instructions, or are taken to a La Vergne Police Department Impound Lot. (Ord. #2008-10, July 2008)

9-621. <u>Retrieving of towed vehicles</u>. Persons retrieving towed vehicles must first have release of vehicle from the La Vergne Police Department, if a hold or special instructions have been applied to a towed vehicle. All wrecker services on twenty-four (24) hour rotating schedule must allow vehicles to be retrieved on a twenty-four (24) hour basis. Any vehicle retrieved by the owner after the normal business hours of the wrecker service

may be subject to a gate fee, not to exceed thirty dollars ($30.00), by the wrecker service. The wrecker service shall release towed vehicles to the owner after the owner has shown proof of ownership by presenting vehicle ownership documents and a state issued identification card or driver license. (Ord. #2008-10, July 2008)

CHAPTER 7

YARD SALES

SECTION

9-701. Definition.
9-702. Advertisement signs.
9-703. Removal of signs.

9-701. Definition. Any offering for sale to the general public of goods from a place not normally engaging in such business shall be considered a yard sale. Continuing sale from the same location shall be considered a business and require that the provisions of title 5, chapter 2 of this code be followed. (1994 Code, § 9-801)

9-702. Advertisement signs. Advertisement signs shall be placed only in locations not blocking the view of traffic and shall follow all state and local laws governing their placement. (1994 Code, § 9-802)

9-703. Removal of signs. All advertisement signs shall be removed from public rights-of-way as regulated by article 4, section 4.070, paragraph H of the City of La Vergne Zoning Ordinance. Failure to do so shall result in the general penalty clause for this code of ordinances being imposed. (1994 Code, § 9-803, modified)

CHAPTER 8

SEXUALLY ORIENTED BUSINESS

SECTION

9-801. Purpose and findings.
9-802. Commercial sexual activity prohibited.
9-803. Location of adult business.
9-804. Peep shows.
9-805. Sexually oriented establishment restrictions.
9-806. Employee or entertainer restrictions.
9-807. Violations.
9-808. Sexually oriented business providing specified services.
9-809. Hours of operation.
9-810. Order of closure.
9-811. Compliance with other laws.
9-812. Scienter required to prove violation or employer liability.
9-813. Severability.

9-801. Purpose and findings. (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in reports made available to the council, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 111 S. Ct. 2456 (1991), Triplitt Grille, Inc. v. City of Akron, 40 F. 3d 129 (6th Cir. 1994), and Northend Cinema, Inc. v. Seattle, 585 P.2d 1153 (Wash. 1978), and on other studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Chattanooga, Tennessee; Memphis, Tennessee; and Beaumont, Texas; and also on findings found in the Report of Attorney General's Working

Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the council finds:

(a) Sexually oriented businesses in the listed cities have lent themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these types of establishments responsible for the activities that occur on the premises in the City of La Vergne, Tennessee.

(b) Certain employees of sexually oriented businesses defined in this chapter as adult theatres and cabarets engage in higher incident of certain types of sexually oriented behavior at these businesses than employees of other establishments.

(c) Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as defined under this chapter as adult book stores, adult novelty shops, adult video stores, adult motion picture theatres, or adult arcades.

(d) Offering and providing such space, encourages such activities, which create unhealthy conditions.

(e) Persons frequent certain adult theatres, adult arcades, adult cabarets, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

(g) As of December 31, 2002, there have been 9,924 reported cases of persons with HIV/AIDS living in the State of Tennessee.

(h) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.

(i) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

(j) The surgeon general of the United States in his report of October 22, 1986 has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood or blood components, and from an infected mother to her newborn.

(k) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(l) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy,

and, in part, because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities.

(m) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(n) In Memphis/Shelby County, Tennessee, deputies and police officers investigating exotic dance clubs found numerous obscenity violations, physical contact between fully nude dancers and patrons including fondling of dancers and full sexual intercourse, a variety of other sexual contact including fellatio, solicitation offered (sex for hire), undercover narcotics buys, different acts of violence, runaway juveniles and allegations of white slavery. Another officer testified that 90-95% of the dancers use drugs (cocaine, crack, methamphetamine), that clubs do not report crimes because they do not want police involved, and that he saw three girls performing five sex acts in 15 minutes. Further, the Manager of Infectious Disease at Shelby County Health Department testified that in one topless club, out of 9 females arrested, 8 tested positive for VD and that there is a very close relationship between prostitution and these clubs.

(o) Out of 26 females arrested at BOTTOMS UP, a topless bar in Memphis, 14 had a medical record at the Shelby County STD Clinic.

(p) According to Chattanooga City Police investigating exotic dance clubs since 1993, there has been a considerable amount of bodily contact between patrons and dancers, dancers sometimes: sit in patron's lap; place their breast against the patron's face; while physical contact is maintained gyrate in such a manner as to simulate sexual intercourse; breathe heavily into a patron's groin area; bite at, gnaw at, as well as fondle, the genitals of male patrons; pulled patrons into their vaginal areas; allowed patrons to spoon feed themselves with whipped cream that had been spread on the breasts, vaginal, and anal areas of the dancer; and have had patrons placed a peeled banana between their legs while female "dancers" have eaten the banana. (DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1977).

(q) The Federal Court for Eastern District of Tennessee at Chattanooga found that Chattanooga's adult cabarets displayed tactile, body contact, sexual experiences tantamount to prostitution as defined in Tennessee Code Annotated, § 39-13-512(5). (DLS, Inc. v. City of Chattanooga, 894 F. Supp. 1140 (E.D. Tenn. 1995).

(r) The findings noted in paragraphs 1 through 17 raise substantial government concerns.

(s) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial government concerns.

(t) Requiring that sexually oriented business employees:

(i) Avoid full nudity by maintaining minimal coverage over their genitals (and the nipple/areola portion of the female breast), City of Erie v. Pap's A.M., 529 U.S. 277 (2000);

(ii) Appear semi-nude only upon a stage at least six feet from patrons, DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1977); and not receive tips directly from patrons, Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir. 1986); will help prevent certain types of illicit and unhealthy sexual conduct on the premises of sexually oriented businesses which leads to the transmission of sexually oriented diseases.

(u) The general welfare, health, and safety of the citizens of the City of La Vergne will be promoted by the enactment of this chapter. (1994 Code, § 9-901)

9-802. <u>Commercial sexual activity prohibited</u>. (1) It shall be unlawful for any person to procure, to offer or to engage in any act of anilingus, bestiality, cunnilingus, coprophilia, fellation, flagellation, frottage, masturbation, sexual intercourse, sodomy or urolangnia for any financial consideration or reward.

(2) As used in this section, the following words shall have the meanings ascribed in this subsection:

(a) "Anilingus" means erotic stimulation achieved by contact between mouth or tongue and the anus.

(b) "Bestiality" means sexual relations between a human being and a lower animal.

(c) "Coprophilia" means use of feces for sexual excitement.

(d) "Cunnilingus" means stimulation of the vulva or clitoris with the lips.

(e) "Fellation" means the practice of obtaining sexual gratification by oral stimulation of the penis.

(f) "Flagellation" means an act or instance of obtaining sexual gratification by beating, flogging or scourging another, or being the recipient of such action.

(g) "Frottage" means masturbation by rubbing another person.

(h) "Masturbation" means erotic stimulation involving the genital organs, commonly resulting in orgasm and achieved by manual or other bodily manipulation.

(i) "Sexual intercourse" means carnal copulation of male and female implying actual intercourse of the organs of the latter.

(j) "Sodomy" means penetration of the male organ into the anus of another person.

(k) "Urolangnia" means sexual excitement associated with the urine or urination. (1994 Code, § 9-902)

9-803. <u>Location of adult business</u>. (1) For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this subsection:

(a) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock in trade, books, films, video cassettes, DVDs, magazines, computer software, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas.

(b) "Adult cabaret" means an establishment which regularly features as a principle use of its business employees, as defined below, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks.

(c) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has as a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities of exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed.

(d) "Adult mini motion picture theatre" means an enclosed building with a capacity for less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by patrons therein;

(e) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting material having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by patrons therein:

(f) "Sexually-oriented businesses," or "sexually-oriented establishments," includes "adult-bookstores," "adult cabarets," "adult mini-motion picture theaters," "adult motion picture theaters," "escort," "escort service," "sexual encounter center," "massage parlor," "rap parlor," "sauna," or "adult motel."

(g) "Employee" means a person who performs any service on the premises of an adult-oriented establishment on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

(h) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee, escort or an independent contractor;

(i) "Escort" means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort.

(i) A "service oriented escort" is an escort which:

(A) Operates from an open office;

(B) Does not employ or use an escort runner; and

(C) Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau which so advertises; and

(D) Does not offer or provide sexual conduct.

(ii) A "sexually oriented escort" is an escort which:

(A) Employs as an employee, agent, or independent contractor an escort bureau runner; or

(B) Works for, as an agent, employee, contractor, or is referred to a patron by a sexually oriented escort bureau; or

(C) Advertises, that sexual conduct will be provided, or works for, as an employee, agent or independent contractor or is referred to a patron by an escort bureau which so advertises; or

(D) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort bureau; or

(E) Works as an escort without having a current valid permit issued under this chapter, in his or her possession at all times while working as an escort; or

(F) Accepts a fee from a patron who has not first been delivered a contract.

(j) "Escort service" means a person as defined herein, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts.

(i) A "service oriented escort bureau" is an escort bureau which:

(A) Maintains an open office at an established place of business; and

(B) Employs or provides only escorts which posses valid permits issued under this chapter; and

(C) Does not use an escort bureau runner; and

(D) Does not advertise that sexual conduct will be provided to a patron.

(ii) A "sexually oriented escort bureau" is an escort bureau which:

(A) Does not maintain an open office; or

(B) Employs as an employee, agent or independent contractor, uses an escort bureau runner; or

(C) Advertises that sexual conduct will be provided, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron; or

(D) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron; or

(E) Employs, contracts with or provides or refers escorts who do not possess valid permits issued under this chapter; or

(F) Does not deliver contracts to every patron or customer; or

(G) Employs, contracts with a sexually oriented escort or refers or provides to a patron, a sexually oriented escort.

(k) "Open office" means an office at the escort service from which the escort business is transacted and which is open to patrons or prospective patrons during all hours during which escorts are working, which is managed or operated by an employee, officer, director or owner of the escort service having authority to bind the service to escort and patron contracts and adjust patron and consumer complaints;

(l) "Operator" means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment;

(m) "Person" means an individual, partnership, limited partnership, firm, corporation or association;

(n) "Specified anatomical areas" means:

(i) Less than completely and opaquely covered:

(A) Human genitals;

(B) Pubic region;

(C) Buttocks; and

(D) Female breasts below a point immediately above the top of the areola; and

(ii) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

(o) "Specified sexual activities" means:

(i) Human genitals in a state of sexual stimulation or arousal;

(ii) Acts of human masturbation, sexual intercourse or sodomy; or

(iii) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(p) "Specified criminal acts" means sexual crimes against children, sexual abuse, rape, indecent exposure, distribution of obscenity, distribution of obscenity or harmful materials to minors, prostitution, pandering, or tax violations.

(q) "Sexual stimulation" means to excite or arouse the prurient interest or to offer or solicit acts of "sexual conduct" as defined in this chapter.

(r) "Sexual gratification" means "sexual conduct" as defined in this chapter.

(s) "Sexual conduct" means the engaging in or the commission of act of sexual intercourse, oral-genital contact, sodomy, or masturbation.

(t) "Specified services" means massage services, and acting as an "escort" as defined in this chapter.

(u) "Sexual encounter center" means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(i) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(ii) Physical contact between male and female persons and/or persons of the same sex when one or more of the persons exposes to view of the persons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

(v) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services where one or more of the employees exposes to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

(w) "Rap parlor" means an establishment or place primarily in the business of providing nonprofessional conversation or similar service for adults.

(x) "Sauna" means an establishment or place primarily in the business of providing:

(i) A steam bath; or

(ii) Massage services.

(y) "Adult motel" means a hotel, motel, or similar commercial establishment that:

(i) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, video reproductions, slides, or other reproductions offered in photographic, electronic, magnetic, digital, or other imaging medium or other visual representations that are distinguished or characterized by an emphasis on matters that depict or describe "specified sexual activities" or "specified anatomical areas" and has a sign visible from the public right-of-way which advertises the availability of adult, nude, sex, or "XXX" movies, videos, films, or other similar reproductions; or

(ii) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(iii) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

(2) It shall be unlawful to establish, operate or maintain any adult business, that is adult bookstore, adult motion picture theatre, adult mini motion picture theatre or adult cabaret, within the city, if the proposed location is within one thousand (1,000) feet of:

(a) A residentially zoned district;

(b) Any area which is devoted in part or exclusively to recreational activity;

(c) Any school, park, church, mortuary or hospital;

(d) Any adult business as defined by this section; or

(e) Any other regulated use, including but not limited to establishments authorized to sell any alcoholic beverages for on- or off-premises consumption.

(3) No sexually oriented business may begin to operate except within the confines of an I-2 (HEAVY INDUSTRIAL) zoning district as defined under the zoning laws of the city.

Nothing contained in this section shall be construed to authorize the establishment or operation of any adult business which is otherwise prohibited or made unlawful by any other law or ordinance. (1994 Code, § 9-903)

9-804. <u>Peep shows</u>. (1) **A** person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(a) It shall be the duty of the operator, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.

(b) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no openings of any kind exist between viewing rooms. No person shall make an attempt to make an opening of any kind between viewing rooms.

(c) The light level in such establishments shall not be less than ten (10) candles at floor level.

(d) It shall be the duty of the operator to ensure that premises are clean and sanitary. Such duty shall be fulfilled if the operator complies with the following procedures:

(i) The operator shall maintain a regular cleaning schedule of at least two cleanings per day, documented by appropriate logs.

(ii) The operator shall provide an employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least twice each week. Prior to collection, solid waste shall be stored in a manner which prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.

(iii) Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. **A** manager's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this paragraph must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls,

merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises. (1994 Code, § 9-904)

9-805. <u>Sexually oriented establishment restrictions</u>. It shall be unlawful for any person maintaining, owning or operating a sexually-oriented establishment located within the City of La Vergne, Tennessee:

(1) To permit any employee or entertainer to fondle or caress any patron or to permit any patron to fondle or caress any entertainer or employee; or

(2) To permit any entertainer while exposing any specified anatomical area, as defined herein, to knowingly or intentionally touch a customer or the clothing of a customer; or

(3) To permit any entertainer while exposing any specified anatomical areas, as defined herein, to knowingly or intentionally be or remain in any location other than on a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest customer; or

(4) To permit any employee or entertainer to solicit any pay or gratuity from any patron while performing; or

(5) (a) To permit any employee or entertainer, while on the premises of the adult-oriented establishment to:

(i) Engage in sexual intercourse;

(ii) Engage in deviant sexual conduct;

(iii) Appear in a state of nudity;

(iv) Fondle the genitals of himself or another person.

(b) For the purpose of this section. "NUDITY" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state; or

(6) To permit any intoxicating liquor, cereal malt beverage, narcotic or controlled substance to be sold or consumed on the premises of the adult-oriented establishment. (1994 Code, § 9-905)

9-806. <u>Employee or entertainer restrictions</u>. It shall be unlawful for any employee or entertainer at an adult-oriented establishment located within the City of La Vergne, Tennessee:

(1) To fondle or caress any patron or to permit any patron to fondle or caress any entertainer or employee; or

(2) To knowingly or intentionally touch a customer or the clothing of a customer while exposing any specified anatomical areas as defined herein; or

(3) To knowingly or intentionally be or remain in any location other than on a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest customer while exposing any specified anatomical areas as defined herein; or

(4) To solicit any pay or gratuity from any patron while performing; or

(5) (a) To, while on the premises of an adult-oriented establishment:

(i) Engage in sexual intercourse;

(ii) Engage in deviant sexual conduct;

(iii) Appear in a state of nudity;

(iv) Fondle the genitals of himself or another person.

(b) For the purpose of this section. "Nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state. (1994 Code, § 9-906)

9-807. <u>Violations</u>. Any person violating this chapter shall commit an offense against the City of La Vergne, Tennessee, and upon conviction shall be fined under appropriate state law, or shall be fined for a conviction within the City Court of La Vergne, Tennessee, with a fine of up to fifty ($50.00) dollars for each violation. (1994 Code, § 9-907)

9-808. <u>Sexually oriented businesses providing specified services</u>. Sexually oriented businesses that provide "specified services" for customers or patrons shall:

(1) Provide patrons with written contracts and receipts that show:

(a) "Specified service" provided;

(b) Cost of "specified service;"

(c) Date and time of service provided;

(d) Signature of customer or patron and signature or initials of permit holder providing the "specified service;"

(e) Method of payment for service.

(2) Keep copies of contracts and receipts on file for two years.

(3) Keep copies on file or all published advertisements. (1994 Code, § 9-908)

9-809. <u>Hours of operation</u>. (1) No sexually-oriented business shall be open before eight o'clock A.M. (8:00 A.M.), Monday through Saturday; and no such establishment shall remain open after twelve o'clock (12:00) midnight, Monday through Saturday. No adult oriented establishment shall be open for business on any Sunday or a legal holiday as designated in <u>Tennessee Code Annotated</u>, § 15-1-101.

(2) Sexually oriented businesses and sexually oriented business employees shall permit officers or agents of the city to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually

oriented business is occupied by patrons or is open for business. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize an excessive pattern of inspections. (1994 Code, § 9-909)

9-810. Order of closure. Upon a second or subsequent violation of any part of this chapter, any real property found to be in violation of the requirements stated in this chapter will also be subject to an order of closure, and/or cease and desist, by chancery court action seeking injunctive relief to enforce the provisions of this law, provided, that such second or subsequent violation occurs after a conviction has been obtained for the previous such violation. (1994 Code, § 9-910)

9-811. Compliance with other laws. All persons operating a sexually oriented business within the city limits of La Vergne, Tennessee shall obey and follow all state statutes, including but not limited to all statutes concerning nudity and shall also comply with any licensing requirements which may be required under state or county law. (1994 Code, § 9-911)

9-812. Scienter required to prove violation or employer liability. This chapter does not impose strict liability. If the culpable mental state for an offense herein is not specified, then a knowing or intentional act is required to establish the offense. Additionally, notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee shall be imputed to a sexually oriented business operator for the purpose of establishing a violation of this chapter only if an operator allowed, either knowingly or intentionally, a violation of this chapter to occur. It shall be a defense to liability that the operator was powerless to prevent the violation. (1994 Code, § 9-912)

9-813. Severability. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause, or provision of this chapter. (1994 Code, § 9-913)

CHAPTER 9

MOBILE FOOD VENDORS

SECTION

9-901. Definitions.
9-902. Generally.
9-903. Locations and hours of operation.
9-904. Operating requirements.
9-905. Mobile food service permits.
9-906. Food truck rallies.

9-901. Definitions. Whenever used in this chapter unless the context requires otherwise:

(1) "Canteen trucks" are vehicles that operate to provide food services to employees at a location where access to other good service is impractical (e.g., a construction site); from which the operator vends fruits, vegetables, pre-cooked foods such as hot dogs, pre-packaged foods, and pre-packaged drinks that require no preparation or assembly of foods or beverages except for the heating of pre-cooked foods; which operate at a single location for a period not longer than two (2) hours; and which do not advertise in any form to the general public except by virtue of signage on the vehicle. Canteen trucks that operate other than as defined herein are food trucks and must comply with all food truck regulations.

(2) "Food trucks" are vehicles from which the operator cooks, prepares, or assembles food items (including products sold by canteen trucks and ice cream trucks) with the intent to sell such items to the general public and which may market their products to the public via advertising, including social media.

(3) "Food truck rallies" are coordinated and advertised gatherings on city property of two (2) or more food trucks in one location on a certain date with the intent to serve the public.

(4) "Ice cream trucks" are vehicles from which the operator vends only pre-packaged frozen dairy or frozen water-based food products, soft serve, or hand-dipped frozen dairy products or frozen water-based food products, and pre-packaged beverages.

(5) "Location" means any single property parcel and all other parcels that is contiguous or cumulatively contiguous to that owned or controlled by a single or affiliated entities.

(6) "Mobile food service permit" means a permit issued by the city for the operation of food trucks, special events, city co-sponsored events, or an approved food truck rally.

(7) "Mobile food service vehicle" means a food truck, a canteen truck, or an ice cream truck and includes any other portable unit that is or can be

attached to a motorized vehicle and that is intended for use or in service to the operations of the mobile food service vehicle.

(8) "Operate" means to promote or sell food, beverages, and other permitted items from the mobile food service vehicle and includes all tenses of the work.

(9) "Operator" means any person owning, operating, or permitted to operate a food truck and collectively refers to all such persons.

(10) "Vehicle," as used in this chapter, means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (as added by Ord. #2019-22, July 2019 ***Ch3_9-3-19***)

9-902. Generally. (1) It is a violation to operate a mobile food service vehicle at any location except in compliance with the requirements of this chapter.

(2) Mobile food service vehicle operators must comply with all state and local business tax regulations. (as added by Ord. #2019-22, July 2019 ***Ch3_9-3-19***)

9-903. Locations and hours of operation. (1) Food trucks.

(a) Public property. Food trucks may operate on city property, including City parks, only at the times and locations as allowed by the City.

(b) Private property. Food trucks may operate on private property where there is a commercial, office, educational, or industrial use subject to the following conditions:

(i) Permission. Food trucks selling to the public from private property shall have the written permission of the property owner, which shall be made available to the city immediately upon request.

(ii) Unimproved properties. Regardless of an agreement with the owner of the property, a food truck may not operate on an unimproved parcel or portion of an unimproved parcel unless that parcel is paved, has paved ingress and egress, and has on the parcel a principal structure with an operating restroom.

(iii) Maximum number of food trucks. No more than one (1) mobile food truck may operate at any location.

(iv) Existing parking spaces. Mobile food trucks may not require the use of more than twenty-five percent (25%) of existing parking spaces located on the property for which it has an agreement to operate.

(c) Prohibited locations. Food trucks must follow all existing codes and ordinances and shall be prohibited at the following private property locations:

(i) Within two hundred feet (200') of a building in which a full-service restaurant or fast-food restaurant is located and operating, unless approval is obtained in writing from the owner of the business.

(ii) Within twenty feet (20') of any structure built of combustible construction and within ten feet (10') of any structure built of non-combustible construction.

(iii) Within twenty feet (20') of any fire hydrant, fire escape, bus stop, any intersection curb radius return (the point of intersection of the street curb line and the curb radius), any doorway or driveway or other main entrance of any building, and of any emergency or fire exits.

(iv) Within five hundred feet (500') of a school property line during regular school hours.

(v) Within one thousand three hundred twenty feet (1,320') one-fourth (1/4) mile of another mobile food vendor.

(d) Restroom facility. Food trucks operating at any location must have a written agreement, available upon request by the city, that permits employees to have access to a flushable restroom no more than four hundred fifty feet (450') of the vending location during all hours of operation.

(2) Canteen trucks. (a) Locations. (i) Private property. Canteen trucks may operate on private property to cater to on-site employees of a clearly delineated single location for a limited period of time not greater than two (2) hours.

(ii) Food truck rallies. A canteen truck may operate at a food truck rally only after complying with all requirements applicable to a food truck.

(b) Hours of operation. Canteen trucks may operate after 5:00 A.M. and before 6:00 P.M. in all areas.

(3) Ice cream trucks. (a) Locations. (i) Right-of-way. An ice cream truck may not operate from the right-of-way at any one location for more than fifteen (15) minutes without relocating to another location not less than one-quarter mile from the previous location.

(ii) Private property. An ice cream truck may operate on private property with written permission of the property owner, which will be immediately available to the city upon request. An ice cream truck may not require use of more than twenty-five percent (25%) of existing parking spaces. No ice cream truck may operate on the same or adjoining private property more than two (2) days per week.

(b) Hours of operation. Ice cream trucks may operate after 11:00 A.M. and before sunset. (as added by Ord. #2019-22, July 2019 ***Ch3_9-3-19***)

9-904. Operating requirements. (1) Vehicle requirements.

(a) Design and construction. Mobile food service vehicles must be specifically designed and constructed for the purpose of preparation and sale of the specific type of food being sold and may not operate in any manner that is not safe and is not compatible with the purpose for which the vehicle has been designed and constructed.

(b) Licensing. Mobile food service vehicles must be licensed in accordance with the rules and regulations of any local, state, and federal agency having jurisdiction over motor vehicles and all products sold therein must be properly licensed, permitted, and allowed by local, state, and, federal laws or regulations.

(2) Right-of-way. Mobile food service vehicles may not operate, stop, stand, or park in any area of the right-of-way that is intended for use by vehicular travel or that in any way impedes the use of the right-of-way or that present an unsafe condition for patrons, pedestrians, or other vehicles.

(3) Business access. No mobile food service vehicle may operate in a location that impedes the ingress to, egress from, or signage of another business or otherwise causes undue interference with access to other businesses or emergency areas, paths, or facilities.

(4) Distance between units. A mobile food service vehicle may not operate within ten feet (10') of any other mobile food service vehicle.

(5) Types of cooking apparatuses. Open flame cooking (other than with a gas range specifically constructed and designed within the food truck) either within or outside a mobile food service vehicle is prohibited; except where such activity is specifically permitted by the fire department. Canteen trucks may have installed within the vehicle a heating apparatus that is used only for serving heated pre-cooked foods provided such apparatus is permitted by state and local regulations. Ice cream trucks can have no heating apparatus installed within the vehicle for the purpose of food service.

(6) Noise. Amplified music or other sounds from any mobile food service vehicles may not at any time unreasonably disturb nearby businesses, pedestrians, or vehicles.

(7) Fixed establishment. If the operator has a fixed, non-mobile establishment or any other place that is used for the storage of supplies, the preparation of food to be sold or served at or by mobile food service vehicle, or the cleaning and servicing of the mobile food service vehicle, such a location within the city cannot be located in any residential zoning district; unless such location complies with all applicable zoning regulations, building code requirements, and requirements of the La Vergne Water and Sewer Department.

(8) Utilities. All mobile food service vehicles shall comply with the version of the electrical code currently adopted by the city. Any electrical power, water, or sewage required for the mobile food service vehicle shall be self-contained and shall not use utilities drawn from other sources.

(9) Fire extinguishers required. All mobile food service vehicles must be equipped with a 2-A:10-B:C fire extinguisher that is certified annually by a licensed company. Additionally, any mobile food service vehicle that produce grease laden vapors (e.g., those units with deep fat fryers or flat top griddles) must be equipped with a K-Class fire extinguisher that is certified annually by a licensed company. A ventilation system and automatic fire extinguishing system may be required.

(10) Support methods. No mobile food service vehicle may use stakes, rods, or any method of support that must be drilled, driven, or otherwise fixed, into or onto asphalt, pavement, curbs, sidewalks, or buildings.

(11) Spills. To prevent discharges into the storm drain system and streams, each unit shall comply with all stormwater regulations of the city. In addition, each unit shall have a spill response plan and kit on board to contain and remediate any discharge from the unit. In the event of a spill, operators are required to call the La Vergne Fire Department to assist with the clean-up of spills and to determine the need for a more extensive response.

(a) Spill plan. Food trucks must post, on the interior of the vehicle, instructions for containing spills; at a minimum such plan should include

(i) Description of and typical quantities materials that may be spilled;

(ii) Procedures for containing potentially spilled materials including proper disposal of spilled materials;

(iii) Procedures for storage, use, handling and transfer of materials to reduce potential for spilling; and

(iv) Emergency notification requirements;

(b) Spill kit. Food trucks must have a response kit on the vehicle including

(i) Minimum five (5) gallon storage and clean-up container capacity with lid;

(ii) Minimum of ten (10) absorbent pads and two (2) absorbent socks or equivalent;

(iii) Disposable bag adequate to hold contents of spill kit and spilled materials; and

(iv) One (1) pair of disposable gloves.

(12) Waste collection. The area of a mobile food service vehicle operation must be kept neat and orderly at all times. Operation of a mobile food service vehicle in an area is deemed acceptance by the operator of the responsibility for cleanliness of the reasonable area surrounding the operations (not less than twenty feet (20') from all parts of the vehicle) regardless of the occurrence or source of any waste in the area. The operator must provide proper trash receptacles for public use that are sufficient and suitable to contain all trash generated by the mobile food service vehicle during the period of operation at a location. All trash within the area of operations regardless of the source must

be removed and all garbage, trash, and trash receptacles must be removed when full and prior to departure of a mobile food service vehicle from a location.

(13) Signage. Mobile food service vehicles are limited to signs mounted to the exterior of the mobile food establishment and one sandwich board sign with dimensions no larger than six (6) square feet. All signs mounted on the unit shall be secured and mounted flat against the unit and shall not project more than six inches (6") from the exterior of the unit. Sandwich board signs shall not obstruct or impede pedestrian or vehicular traffic. All signage must at all times conform to community standards of decency.

(14) Beer and alcohol sales. Food trucks may not sell beer or alcoholic beverages, except as may be specifically allowed by state law. Canteen trucks and ice cream trucks are prohibited from selling beer or alcoholic beverages.

(15) Insurance requirements. Mobile food service vehicles shall obtain, at a minimum, any motor vehicle insurance required by any local, state, or federal laws and regulations.

(a) Food trucks operating on city property are required at all times to maintain a minimum of one million dollars ($1,000,000.00) of liability insurance coverage naming the City of La Vergne as an additional insured. In the event the required coverage is not properly maintained, the operator's mobile food service permit will be immediately revoked. The failure of the operator to notify the city of any change in coverage will preclude the operator from obtaining a permit for a period of six (6) months from the date the city learns of the failure to provide the required notification of change.

(b) Canteen trucks and ice cream trucks shall not operate on city property, except upon obtaining written permission from the city, and may be required to obtain insurance consistent with the type of operation permitted. (as added by Ord. #2019-22, July 2019 ***Ch3_9-3-19***)

9-905. Mobile food service permits. (1) Applicable. No mobile food service vehicle may operate within the city without a mobile food service permit issued by the city. A mobile food service permit authorizes the holder only to engage in the vending of products from a mobile food service vehicle in compliance with city code and as specified on the permit. The mobile food service permit must be prominently displayed when the mobile food service vehicle is in operation.

(2) Application. A mobile food service vehicle operator shall apply for a mobile food service permit by payment of a one hundred dollar ($100.00) application fee and the following:

(a) Complete an application form provided by the city, which shall include the following information:

(i) Name and address of the owner of the vehicle;

(ii) Name and address of the operator of the vehicle;

(iii) Three color photographs of the exterior (front, side, and back) and interior food service portion of the vehicle in the final condition and with any and all markings under which it will operate;

(iv) A copy of the vehicle license and registration form reflecting the vehicle identification number (VIN) of the mobile food service vehicle.

(v) A copy of the state or county health department license or permit applicable to mobile food providers;

(vi) A copy of the fire marshal's inspection report;

(vii) A copy of any alcoholic beverage licenses, if applicable;

(viii) A copy of the operator's Tennessee business license issued by the city or the operator's home-based county; and

(ix) A copy of insurance coverage.

(b) Permittee has an on-going duty to provide the city with notice of any change to any of the information required by the city to obtain a mobile food service permit, including current photographs of the mobile food service vehicle in the event of any change in the appearance of or signage on the vehicle.

(c) This section does not apply to contractual arrangements between a mobile food service vehicle operator and an individual, group, or the city for catering at a specific location that is not open to or serving the public.

(3) Issuance. A mobile food service permit shall be issued upon full completion and review of the application required by this section and a background check being completed by the police department. No mobile food service permit will be issued to:

(a) An operator that operated within the prior six (6) months notwithstanding a mobile food service permit that is suspended or has been revoked; or

(b) An operator, or any person affiliated with the operator for purposes of operating a mobile food vehicle that is the subject of a suspended mobile food service permit or has held a mobile food service permit revoked with the prior twelve (12) months.

(c) An operator whose background check is found to be unsatisfactory.

(4) Expiration. A mobile food service permit expires on the date twelve (12) months after issuance and may be renewed provided that all city requirements are met and the license has not been suspended or revoked.

(5) Transferability. A mobile food service permit may not be transferred except as part of the sale of an interest in a business holding the license or a sale of substantially all of the assets of a business holding the license.

(6) Enforcement. (a) If an operator is found to be operating within the city and without a mobile food service permit, the operator will be cited. The operator will pay a fine of fifty dollars ($50.00) to offset the city's costs of compliance measures, inspections, and correction of any circumstance resulting from operators failure to comply with this article.

(b) Warnings. A city enforcement officer may provide one (1) warning to any operator for a violation of this section except that a citation shall be issued as set forth in the section.

(c) Citation. A city enforcement officer must issue a citation to the mobile food service operator for the following:

(i) A second violation of this section is found to have occurred after a warning has been issued within the previous six (6) months; or

(ii) Any violation that constitutes ground for revocation of a mobile food service permit.

(d) Suspension. A mobile food service permit shall be suspended until reinstatement upon issuance of a citation for the following reasons:

(i) A second violation of this section is found to have occurred after a warning has been issued within the previous six (6) months;

(ii) The required vehicle license, health permit, or business tax license for the operator or the mobile food service vehicle has expired or been suspended, revoked, or otherwise terminated;

(iii) The operator fails to obtain or maintain the insurance coverages required by this section.

(e) Revocation. The city shall revoke a mobile food service permit after two (2) suspensions within a twelve (12) month period. The mobile food service permit may be revoked if the operator operates in an unlawful manner or such a manner as to constitute a breach of the peace, interferes with the normal use of the right-of-way, or otherwise constitutes a menace to the health, safety, or general welfare of the public.

(f) Reinstatement. (i) Suspension. An operator may reinstate a suspended mobile food service permit by payment of a fee of fifty dollars ($50.00) to offset the city's costs of compliance measures, necessary inspections, and the correction of any circumstance that lead to the suspension.

(ii) Revocation. The city may allow an operator to reapply for a mobile food service permit after three (3) months from the date of revocation if the operator corrects all circumstances that lead to the violations and the operator pays a fee of fifty dollars ($50.00) to offset the city's costs of compliance measures, necessary

inspections, and the correction of any circumstance that lead to the suspension.

(7) Notice. Upon denial, suspension or revocation of a mobile food service permit, the city shall give notice to the operator in writing. There shall be no refund of any other fee paid to the city.

(8) Appeal. Citation may be appealed to the city administrator, whose decision, which will be based upon a written summation of the facts submitted by the city enforcement officer and the permit holder, is final. (as added by Ord. #2019-22, July 2019 ***Ch3_9-3-19***)

9-906. Food truck rallies. All food truck rallies on city property will require each vendor to pay any required booth rental fees to the parks and recreation department. A parks vendor permit is not required if the food truck has received a mobile food service permit. All food truck rallies will be coordinated by the parks and recreation department. (as added by Ord. #2019-22, July 2019 ***Ch3_9-3-19***)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS.
3. SEIZURE AND DISPOSITION.

CHAPTER 1

IN GENERAL

SECTION

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

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

10-102. 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.

10-103. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, 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.

10-104. Keeping in such manner as to become nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance either because of noise, odor, contagious disease, or other reason.

CHAPTER 2

DOGS

SECTION

10-201. Rabies vaccination and registration required.
10-202. Dogs to wear tags.
10-203. Running at large prohibited.
10-204. Vicious dogs.
10-205. Noisy dogs prohibited.
10-206. Confinement of dogs suspected of being rabid.

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

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

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

10-204. Vicious dogs. (1) Definitions. (a) A "vicious" dog as the term is used in this section means:

(i) Any dog which attacks a human and thereby causes death or serious injury; or

(ii) Any dog which attacks a human being or a domestic animal on two (2) or more occasions without provocation; or

(b) A vicious dog is "unconfined" as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the person described in subsection (2) hereof. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded in the ground not less than two feet (2').

(2) No person owning or harboring or having the care of a vicious dog shall suffer or permit such animal to go unconfined on the premises of such person.

(3) No person owning or harboring or having the care of a vicious dog shall suffer or permit such dog to go beyond the premises of such person unless

such dog is securely leashed and muzzled, except that a vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club show or upon prior approval of the city administrator.

(4) Violations and penalties. Whoever violates the provisions of this section shall be guilty of a misdemeanor and fined not more than fifty dollars ($50.00) and costs. In conformance with Tennessee Code Annotated, § 44-17-120, any dog which attacks a human being and thereby causes death or serious injury may be destroyed upon the order of the Judge of the Circuit Court of Rutherford County. Such orders shall be granted on the petition of the District Attorney for Rutherford County. The petition shall name the owner of the dog, and the owner shall be given notice as in civil cases, that if he does not appear before the court within five (5) days of the receipt thereof and show cause why the dog should not be destroyed, then the order shall issue and the dog shall be destroyed. In addition, any person found guilty of violating this section shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or board and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog.

(5) Should the complaining party, law enforcement officer, or city official determine the dog should be destroyed and plan to request the district attorney to take such action, notice that said dog should be declared a vicious dog shall be given to the owner or person who has had custody of the dog, if known, and the alleged victim by certified mail, return receipt requested, or by delivery by an officer to the premises, said mailing or delivery date to be within three (3) working days of the impoundment or incarceration of the dog.

(6) At said hearing, the judge shall hear testimony and receive evidence from the interested parties and shall have the discretion to find the declaration of being a vicious dog to be unwarranted, to declare said dog to be a vicious dog and humanely destroyed in accordance with Tennessee Code Annotated, § 44-17-120 and other applicable provisions of the Tennessee Code Annotated, or to declare such dog to be a vicious dog used for the protection of property and place such restrictions and conditions on the continued possession of the dog in addition to those set forth hereinabove to include:

(a) Establish location of the dog's residence, to include removal of the dog from the City of La Vergne;

(b) Photo identification or permanent marking of the dog for purposes of identification.

(7) If the dog is declared by the judge to be a vicious dog used for the protection of property, the dog may be redeemed with said conditions of possession after three (3) working days have transpired, if no appeal is timely filed. The dog shall in no event be eligible for adoption.

(8) If the dog is redeemed and the dog thereafter is allowed to run at large or, without provocation, attacks and bites any human, the dog shall be impounded. Notice as provided hereinabove shall be given to the owner or

custodian of the dog in the event the District Attorney for Rutherford County files a petition with the circuit court for Rutherford County. If said dog has run at large, said dog, has without provocation, attacked and bitten a human, or said dog has been trained for participation in dog fights, pursuant to Tennessee Code Annotated, § 39-3105, or if the conditions of possession have been violated or the dog is found to have engaged in any of the activities listed above, the dog may be ordered by the circuit court to be humanely put to death by the shelter after three (3) working days have transpired, if no appeal is timely filed. If the findings are otherwise, the dog shall be eligible for redemption with the conditions previously attached to the possession of said dog. Upon a timely appeal, a hearing shall be held and a decision rendered on the issues listed above.

(9) Any owner of a vicious dog kept for the protection of property who sells or otherwise transfers ownership, custody or residence of said dog shall, within ten (10) days thereof, inform, in writing, the manager of the local animal shelter of the name, address, and telephone number of the new owner or custodian and state that the new owner has received a copy of the decision finding the dog to be a vicious dog used to protect property with the conditions for continued possession therein.

(10) Any dog which has been declared a vicious dog by the city, county or state, shall be subject to the provisions of this chapter for the remainder of its life, and any owner of any dog declared to be a vicious dog in any other municipality, county or state shall, within ten (10) days of moving into the City of La Vergne, notify the animal shelter manager of the bringing of such dog into the City of La Vergne.

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

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

CHAPTER 3

SEIZURE AND DISPOSITION

SECTION

10-301. Definition of terms.
10-302. Restraint.
10-303. Notice to owner and redemption.
10-304. Confinement of certain animals.
10-305. Muzzling.
10-306. Rabies - notice.
10-307. Vaccination.

10-301. Definition of terms. As used in this chapter, unless the context otherwise indicates.

(1) "Animal" shall be intended to mean both male and female animals of any type, kind, or species including but not limited to dogs and cats.

(2) "At large" shall be intended to mean off the premises of the owner, and not under the control of the owner or a member of the owner's immediate family either by leash, cord, chain or otherwise.

(3) "Humane officer" shall mean an agent designated by the mayor or chief of police to enforce this chapter, as well as all personnel of the Rutherford County Rabies Control Department.

(4) "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping or harboring an animal.

(5) "Restraint of an animal" shall mean when the animal is on property of its owner or is under the immediate and effective control of the responsible person.

10-302. Restraint. An animal owner shall keep his animal under restraint at all times.

10-303. Notice to owner and redemption. Any animal found running at large may be seized by a humane officer or any police officer and placed in a pound provided or designated by the mayor and board of aldermen. If said animal is wearing a tag the owner shall be notified in person, by telephone, or by a post card addressed to his last known mailing address to appear within five (5) days and redeem his animal by paying a reasonable pound fee, or the animal will be humanely destroyed or sold. If said animal is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No animal shall be released in any event from a pound unless and until such animal has been vaccinated and a tag placed on its collar. When, because of its viciousness or apparent infection with rabies, an animal found running at

large cannot be safely impounded it may be summarily destroyed by the humane officer or any policeman.

10-304. Confinement of certain animals. No animal which is fierce, dangerous or with vicious propensities and no female animal in heat, shall be allowed to run at large or upon the premises of one other than the owner. If any such animal is found running at large in violation of this provision it shall be taken up and impounded and shall not be released except upon approval of the pound master after payment of the fees provided in § 10-303, however, if any dangerous, fierce, or vicious animal so found at large cannot be safely taken up and impounded, such animal may be slain by any police officer or humane officer.

10-305. Muzzling. Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the mayor, if he deems it necessary, shall issue a proclamation ordering every person owning or keeping an animal to confine it securely on his premises unless such animal shall be muzzled with sufficient strength to prevent his biting any person. Any unmuzzled animal running at large during the time of the proclamation shall be seized and impounded, unless noticeably infected with rabies. All animals so noticeably infected with rabies and displaying vicious propensities shall be killed by the police or humane officer without notice to the owner. Animals impounded during the first two (2) days of such proclamation shall, if claimed within five (5) days, be released to the owner, unless infected with rabies, upon payment of the impounding charges provided for in § 10-303. If unclaimed, after that period, such animal may be summarily destroyed.

10-306. Rabies - notice. If an animal is believed to have rabies or has been bitten by an animal suspected of having rabies, such animal shall be confined by leash or chain and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two (2) weeks.

10-307. Vaccination. It shall be unlawful for the owner of any animal to keep, maintain, or allow such animal to run at large unless it shall have been vaccinated by a licensed veterinary surgeon with anti-rabies vaccine, within one (1) year preceding the date on which such animal is kept, maintained or allowed to run at large.

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
4. FIREARMS, WEAPONS AND MISSILES.
5. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
6. MISCELLANEOUS.
7. CURFEW FOR MINORS.

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. Drinking beer, etc., on streets, etc.

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 or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground. (1994 Code, § 11-101, modified)

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

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.

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, § 11-401)

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

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

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

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

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

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

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

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, shall be allowed between the hours of 7:00 A.M. and 6:00 P.M. Monday through Friday and between the hours of 8:00 A.M. and 6:00 P.M. Saturday and Sunday. Additional hours may be granted 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 which shall not exceed thirty (30) days.

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

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

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

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

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

(a) 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, § 11-402)

CHAPTER 3

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-301. Escape from custody or confinement.
11-302. Impersonating a government officer or employee.
11-303. False emergency alarms.
11-304. Resisting or interfering with an officer.
11-305. Coercing people not to work.

11-301. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1994 Code, § 11-501)

11-302. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1994 Code, § 11-502)

11-303. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1994 Code, § 11-503, as amended by Ord. #2006-5, April 2006)

11-304. Resisting or interfering with an officer. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (1994 Code, § 11-504)

11-305. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1994 Code, § 11-505)

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. Air rifles, etc.
11-402. Throwing missiles.
11-403. Discharge of firearms.

11-401. 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, § 11-601)

11-402. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1994 Code, § 11-602)

11-403. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the city except while lawfully hunting as defined by Tennessee Code Annotated, title 70. Anyone discharging a firearm, even when lawfully hunting, must not discharge that firearm in a reckless manner that places or may place another person in imminent danger of death or serious bodily injury. It shall also be unlawful for any unauthorized person to discharge a firearm within the city except in cases of legitimate self defense or defense of an innocent third party. (1994 Code, § 11-603, as amended by Ord. #2008-21, Dec. 2008)

CHAPTER 5

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-501. Trespassing.
11-502. Trespassing on trains.
11-503. Interference with traffic.

11-501. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge. (1994 Code, § 11-701, modified)

11-502. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1994 Code, § 11-702)

11-503. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1994 Code, § 11-704)

CHAPTER 6

MISCELLANEOUS

SECTION

11-601. Caves, wells, cisterns, etc.
11-602. Posting notices, etc.
11-603. Use of name and corporate symbols.
11-604. [Deleted.]

11-601. 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, § 11-802)

11-602. 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, § 11-803)

11-603. Use of name and corporate symbols. It shall be unlawful for any individual, business, or corporation except the city, singly or in combination, to use the name, phrase or corporate symbol or insignia of the "City of La Vergne" or any of its departments, separately or in combination with any other words, names, or phrases or any abbreviations thereof, or to use any name, names, and/or phrases confusingly similar. (1994 Code, § 11-807, modified)

11-604. [Deleted.] (as added by Ord. #2013-16, Sept. 2013, and deleted by Ord. #2014-16, Aug. 2014)

CHAPTER 7

CURFEW FOR MINORS

SECTION

11-701. Purpose.
11-702. Definitions.
11-703. Curfew enacted; exceptions.
11-704. Parental involvement in violation unlawful.
11-705. Involvement by owner or operator of vehicle unlawful.
11-706. Involvement by operator or employee of establishment unlawful.
11-707. Giving false information unlawful.
11-708. Enforcement.
11-709. Violations punishable by fine.

11-701. Purpose. The purpose of this chapter is to:

(1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the town;

(2) Promote the safety and well-being of minors, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activity, particularly unlawful drug activity, and to being victimized by older criminals; and

(3) Foster and strengthen parental responsibility for children.

11-702. Definitions. As used in this chapter, the following words have the following meanings:

(1) "Curfew hours" means the hours of 12:30 A.M. through 6:00 A.M. each day.

(2) "Emergency" means unforeseen circumstances, and the resulting condition or status, requiring immediate action to safeguard life, limb, or property. The word includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

(3) "Establishment" means any privately-owned business place within the town operated for a profit and to which the public is invited, including, but not limited to, any place of amusement or entertainment. The word "operator" with respect to an establishment means any person, firm, association, partnership (including its members or partners), and any corporation (including its officers) conducting or managing the establishment.

(4) "Minor" means any person under eighteen (18) years of age who has not been emancipated under Tennessee Code Annotated, § 29-31-101, et seq.

(5) "Parent" means:

(a) A person who is a minor's biological or adoptive parent and who has legal custody of the minor, including either parent if custody is shared under a court order or agreement;

(b) A person who is the biological or adoptive parent with whom a minor regularly resides;

(c) A person judicially appointed as the legal guardian of a minor; and/or

(d) A person eighteen (18) years of age or older standing in loco parentis (as indicated by authorization by a parent as defined in this definition for the person to assume the care or physical custody of the minor, or as indicated by any other circumstances).

(6) "Person" means an individual and not a legal entity.

(7) "Public place" means any place to which the public or a substantial portion of the public has access, including, but not limited to: streets, sidewalks, alleys, parks, and the common areas of schools, hospitals, apartment houses or buildings, office buildings, transportation facilities, and shops.

(8) "Remain" means

(a) To linger or stay at or upon a place or

(b) To fail to leave a place when requested to do so by a law enforcement officer or by the owner, operator, or other person in control of that place.

(9) "Temporary care facility" means a non-locked, non-restrictive shelter at which a minor may wait, under visual supervision, to be retrieved by a parent. A minor waiting in a temporary care facility may not be handcuffed or secured by handcuffs or otherwise to any stationary object.

11-703. <u>Curfew enacted; exceptions</u>. It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked on any public place within the city, or to remain in or upon the premises of any establishment within the city, unless:

(1) The minor is accompanied by a parent; or

(2) The minor is involved in an emergency; or

(3) The minor is engaged in an employment activity, or is going to or returning home from employment activity, without detour or stop; or

(4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or

(5) The minor is attending an activity supervised by adults and sponsored by a school, religious, or civic organization, by a public organization or agency, or by a similar organization, or the minor is going to or returning from such an activity without detour or stop; or

(6) The minor is on a errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the name, signature, address, and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's

destination(s) and the hours the minor is authorized to be engaged in the errand; or

(7) The minor is involved in interstate travel through, or beginning or terminating in, the City of La Vergne; or

(8) The minor is exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and freedom of assembly.

11-704. Parental involvement in violation unlawful. It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of §11-703 of this chapter.

11-705. Involvement by owner or operator of vehicle unlawful. It is unlawful for a person who is the owner or operator of a motor vehicle knowingly to permit, allow, or encourage a violation of § 11-703 of this chapter using the motor vehicle.

11-706. Involvement by operator or employee of establishment unlawful. It is unlawful for the operator or any employee of an establishment knowingly to permit, allow, or encourage a minor to remain on the premises of the establishment during curfew hours. It is a defense to prosecution under this section that the operator or employee promptly notified law enforcement officials that a minor was present during curfew hours and refused to leave.

11-707. Giving false information unlawful. It is unlawful for any person, including a minor, knowingly to give a false name, address, or telephone number to any law enforcement officer investigating a possible violation of § 11-703 of this chapter. Each violation of this section is punishable by a maximum fine of fifty dollars ($50.00).

11-708. Enforcement. (1) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-703 shall make an immediate investigation to determine whether or not the presence of the minor in a public place, motor vehicle, or establishment during curfew hours is a violation of that section. If the investigation reveals a violation and the minor has not previously been issued a warning, the officer shall issue a verbal warning to the minor to be followed by a written warning mailed by the police department to the minor and his/her parent(s). If the minor has previously been issued a warning for a violation, the officer shall charge the minor with a violation of § 11-703 and shall issue a citation requiring the minor to appear in court. In either case, the officer shall, as soon as practicable, release the minor to his/her parent(s) or place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours so the parent(s) may retrieve the minor. If a minor refuses to give an officer his/her name and address

or the name and address of his/her parent(s), or if no parent can be located before the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a crisis center or juvenile shelter and/or may be taken to a judge or juvenile intake officer of the juvenile court to be dealt with as required by law.

(2) Others. If an officer's investigation reveals that a person has violated §§ 11-703, 11-704, 11-705, or 11-706 of this chapter and the person has not been issued a warning with respect to a violation, the officer shall issue a verbal warning to the person to be followed by a written warning mailed by the police department to the person. If there has been a previous warning to the person, the officer shall charge the person with a violation and issue a citation directing the person to appear in court.

11-709. Violations punishable by fine. A violation of §§ 11-703, 11-704, 11-705, or 11-706 subsequent to receiving a verbal warning as provided in § 11-708 is punishable by a maximum fine of fifty dollars ($50.00) for each violation.

TITLE 12

BUILDING, UTILITY, ETC. CODES[1]

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. FUEL GAS CODE.
4. ENERGY CONSERVATION CODE.
5. MECHANICAL CODE.
6. RESIDENTIAL CODE.
7. PROPERTY MAINTENANCE CODE.
8. EXISTING BUILDING CODE.
9. SWIMMING POOL AND SPA CODE.
10. PRIVATE SEWAGE DISPOSAL CODE.
11. ACCESSIBLE AND USABLE BUILDINGS AND FACILITIES CODE.
12. NATIONAL ELECTRICAL CODE.
13. CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS.

CHAPTER 1

BUILDING CODE[2]

SECTION

12-101. Building code adopted.
12-102. Modifications.
12-103. Permit fees.
12-104. Available in recorder's office.
12-105. Violations.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures; by providing the

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[1]See Ord. #2002-01 (Feb. 2002) of record in the office of the recorder for an ordinance adopting by reference the regulations of The City of La Vergne Public Works Specifications Manual dated November 2001.

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

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; the International Building Code, 2012 edition, as published by the International Code Council, including Appendix A is hereby adopted and incorporated by references as a part of this code, and is hereinafter referred to as the building code; and each and all of the regulations, provisions, penalties, conditions and terms of said building code are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-102. Modifications. (1) Wherever the building code refers to the "chief appointing authority," or the "administrative authority," it shall be deemed to be a reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the building code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the building code.

(2) Section 101.1 Title. Add "City of La Vergne, TN" in place of "[name of jurisdiction]."

(3) Section 104.10.1 Flood hazard areas. Delete this section in its entirety.

(4) Section 105.2 Work exempt from permit. Add item #14: "Roof covering replacement where the repairs do not involve replacement of the roof deck and/or structural framing."

(5) Section 105 Permits (Mechanical). Add as item #8: "Replacement of an HVAC unit where unit heating and cooling capacity and fuel source is not changing."

(6) Section 107.2.5.1 Design flood elevations. Delete this section in its entirety.

(7) Section 1008.1.9.4 Bolt locks. Exceptions #3 and 4. Add "M" after "F."

(8) Section 2308.8 Floor joists. Delete "Table 2308.8 (1)" and "2308.8 (2)" and substitute "R502.3.1 (1)" and "R502.3.1 (2)" respectively.

(9) Section 2308.10.2 Ceiling joist spans. Delete "Table 2308.10.2(1)" and substitute "Table R802.4(1)"; delete "Table 2308.10.2(2)" and substitute Table "R802.4(2)."

(10) Section 2308.10.3 Rafter spans. Delete "Table 2308.10.3(1)" and substitute "Table R802.5.1(1)"; delete "2308.10.3(2)" and substitute "R802.5.1(2)"; delete "2308.10.3(3)" and substitute "R802.5.1(3)"; delete "R2308.10.3(4)" and substitute "R802.5.1(4)"; delete "2308.10.3(5)" and substitute "R802.5.1(5)"; delete "2308.10.3(6)" and substitute "R802.5.1(6)." (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-103. Permit fees. The schedule of permit fees shall be as follows:

BUILDING FEE SCHEDULE

Total Valuation	Fee
$1,000 and less	No fee, unless inspection required, in which case a $15.00 fee for each inspection shall be charged.
$1,000 to $50,000	$15.00 for the first $1,000 plus $5.00 for each additional thousand or fraction hereof, to and including $50,000.
$50,000 to $100,000	$260.00 for the first $50,000 plus $4.00 for each additional thousand or fraction thereof, to and including $100,000.
$100,000 to $500,000	$460.00 for the first $100,000 plus $3.00 for each additional thousand or fraction thereof, to and including $500,000.
$500,000 and up	$1,660.00 for the first $500,000 plus $2.00 for each additional thousand or fraction thereof.

Note: Single family dwelling valuations will be figured at $65.00 per square foot.

Note: All other building permit valuations will be based on actual costs.

MISCELLANEOUS FEES

Permit Type	Fee
Swimming Pool Permit	$50.00
Fence Permit	$50.00
Deck Permit	$50.00
House Moving Permit	$150.00
Demolition Permit	$75.00

PLAN REVIEW FEE SCHEDULE

When the valuation of the proposed construction exceeds one thousand dollars ($1,000.00) and a plan is required to be submitted by the building department, a plan-checking fee shall be paid to the building official at the time of submitting plans and specifications for review. Said plan-checking fee shall be equal to one half (½) of the building permit fee. Such plan-checking fee is in addition to the building permit fee. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-104. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-105. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

CHAPTER 2

PLUMBING CODE[1]

SECTION

12-201. Plumbing code adopted.
12-202. Modifications.
12-203. Permit fees.
12-204. Available in recorder's office.
12-205. Violations.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the City of La Vergne and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Plumbing Code, 2012 edition, published by the International Code Council, is hereby referred to, adopted and made a part hereof as if fully set out in this chapter, is hereinafter referred to as the plumbing code. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-202. Modifications. (1) Wherever the plumbing code refers to the "chief appointing authority," the "administrative authority," it shall be deemed to be a reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the plumbing code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the plumbing code.

(2) Section 101.1 Title. Insert "City of La Vergne, TN" in place of "[Name of Jurisdiction]."

(3) Section 106.6.3 Fee Refunds. Insert "100%" in lieu of "[Specify percentage]" in subsection 2 and subsection 3.

(4) Section 305.4.1 Sewer depth. Insert "12" in lieu of "[NUMBER]" in both locations.

(5) Section 903.1 Roof extension. Insert "8" in lieu of "[NUMBER]." (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

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

12-203. **Permit fees**. The schedule of permit fees shall be as follows:

PLUMBING PERMIT FEE SCHEDULE

Commercial/industrial permit fees:
For issuing each permit $100.00
Plus the following when provided:
For each plumbing fixture, floor drain or trap (including water and drainage piping) $3.00
For each house sewer $5.00
For each house sewer being replaced or repaired $5.00
For each cesspool $5.00
For each septic tank or drainfield $10.00
For each water heater and/or vent $2.50
For installation, alteration or repair of water piping and/or water treating equipment $5.00
For repair or alteration of drainage or vent piping $5.00
For vacuum breakers or backflow protective devices installed subsequent to the installation of the piping or equipment served -
One to five $2.50
Over five, each $1.50
Residential permit fees:
1 ½ bath $75.00
2 bath $85.00
2 ½ bath $90.00
3 bath $95.00
3 ½ bath $105.00
4 bath $115.00
4 ½ bath $125.00
5 bath $135.00
(Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-204. **Available in recorder's office**. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-205. **Violations**. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

CHAPTER 3

FUEL GAS CODE

SECTION

12-301. Fuel gas code adopted.
12-302. Modifications.
12-303. Available in recorder's office.
12-304. Violations.

12-301. Fuel gas code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing fuel gas systems and gas-fired appliances and providing for the issuance of permits and collection of fees therefore, the International Fuel Gas Code, 2012 edition, as published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the fuel gas code; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-302. Modifications. Whenever the fuel gas code refers to the "chief appointing authority" or the "administrative authority," it shall be deemed to be a reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the fuel gas code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the fuel gas code. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-303. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the fuel gas code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-304. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

CHAPTER 4

ENERGY CONSERVATION CODE

SECTION

12-401. Energy conservation code adopted.
12-402. Modifications.
12-403. Available in recorder's office.
12-404. Violations.

12-401. Energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Energy Conservation Code, 2009 edition, published by the International Code Council, is hereby referred to, adopted and made a part hereof as if fully set out in this chapter, and is hereinafter referred to as the energy conservation code. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-402. Modifications. (1) Whenever the energy conservation code refers to the "chief appointing authority" or the "administrative authority," it shall be deemed to be a reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the energy conservation code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy conservation code.

(2) Section 101.1 Title. Insert "City of La Vergne, TN" in place of "[Name of Jurisdiction]".

(3) Section 402.4.2 Air sealing and insulation. Delete the following: "…one of the following options given by…" and delete "… or 402.4.2.2."

(4) Section 402.4.2.1 Testing option. Delete "option" from the title of the section. Also, after the second sentence, Add: "The test must be performed by a qualified person who is certified as or accredited from the following: HERS rater, Building Performance Institute, Certified Duct or Envelope Tightness Verifier, or other approved agency as determined by the Building Official. This test cannot be performed by the general contractor as listed on the building permit or a direct employee of the general contractor. A signed certification from the person performing the test shall be submitted with the following information: Address where test was performed; Date when the test was performed; and Results of test in Air Changes per Hour." (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-403. **Available in recorder's office**. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-404. **Violations**. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

CHAPTER 5

MECHANICAL CODE

SECTION

12-501. Mechanical code adopted.
12-502. Modifications.
12-503. Permit fees.
12-504. Available in recorder's office.
12-505. Violations.

12-501. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the City of La Vergne and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Mechanical Code, 2012 edition, published by the International Code Council, is hereby referred to, adopted and made a part hereof as if fully set out in this chapter, and is hereinafter referred to as the mechanical code. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-502. Modifications. Wherever the mechanical code refers to the "chief appointing authority," the "administrative authority," it shall be deemed to be a reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the mechanical code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the mechanical code. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-503. Permit fees. The schedule of permit fees shall be as follows:

MECHANICAL FEE SCHEDULE

Residential mechanical permits:
- Single family dwelling $40.00
- Multi-family dwelling $40.00

Commercial and industrial mechanical permits:
- Issuing fee:
  - For issuing each permit $10.00
- Additional fees:
  - Fees for inspecting heating, ventilating, ductwork, air conditioning and refrigeration systems shall be $10.00 for the first $1,000.00, or

fraction thereof, of valuation of the installation plus $2.00 for each additional $1,000 or fraction thereof.

Fee for inspecting repairs, alterations and additions to an existing system shall be $5.00 plus $2.00 for each $1,000 or fraction thereof.

Fee for inspecting boilers (based upon BTU input):

33,000 BTU to 165,000 BTU	$5.00
165,001 BTU to 300,000 BTU	$10.00
330,001 BTU to 1,165,000 BTU	15.00
1,165,001 BTU to 3,300,000 BTU	$25.00
Over 3,300,001 BTU	$35.00

(Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-504. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-505. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

CHAPTER 6

RESIDENTIAL CODE

SECTION

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

12-601. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of 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 stories in height with separate means of egress in the City of La Vergne and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Residential Code, 2012 edition, published by the International Code Council, and Appendices G, H, J, and K, are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, and is hereinafter referred to as the residential code. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-602. Modifications. (1) Wherever the residential code refers to the "chief appointing authority," the "administrative authority," it shall be deemed to be a reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the residential code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the residential code.

(2) Section R101.1 Title. Insert "City of La Vergne, TN" for name of jurisdiction.

(3) Section 101.2 Scope. In exception #1, delete the last sentence beginning with "Fire…" And in exception #2, delete the last part of the sentence beginning with "when…" and add a "." At the end of "dwellings."

(4) Section R105.2 Work exempt from permit. Amend Item #1 - Change "200" to "120"; Amend Item #10 - Change "200" to "120"; Add Item #11 - "Roof covering replacement that does not involve replacement of roof deck or framing; Amend Mechanical Section by Adding Item #9 - "Replacement of an HVAC unit where unit heating and cooling capacity and fuel source is not changing."

(5) Delete Section R105.3.1.1 Determination of substantially improved or substantially damaged existing buildings in flood hazard area.

(6) Section R112. Board of Appeals. Delete 112.2.1 and 112.2.2.

(7) Section R202 Definitions. Add "Sleeping Room: A room that contains an opaque privacy door, and a closet."

(8) Table R301.2 (1) Climatic and Graphic Design Criteria. Amend as follows:

Ground Snow Load	10 lb.
Wind Speed	90
Topographic Effects	No
Seismic Design	B
Weathering	Severe
Frost Line	12"
Termite	Very Heavy
Winter Design Temp	14"
Ice Barrier	No
Air Freezing Index	366
Mean Avg. Temp. (F)	59

(9) Section R302.2 Exception: change "1 hour" to "2 hour."

(10) Section R302.2.4 Structural independence. In the Exception: change 1 hour to 2 hour.

(11) Section R302.5.1 Opening protection. From the second sentence, delete everything after "… 20 minute fire-rated doors."

(12) Delete Section R309.3 Flood Hazard Areas.

(13) Add new Section R311.1.1: Access from sleeping rooms. "Sleeping Rooms shall not constitute the only means of access to other sleeping rooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces."

(14) Section R313.1 Townhouse automatic fire sprinkler systems. Delete the first sentence, and replace it with: "An automatic residential fire sprinkler system shall be installed in all townhouses with more than three dwelling units or more than 5,000 gross square feet; regardless of the number of dwelling units". (The remainder of section R313.1 will remain unchanged.)

(15) Section R313.2 One and two-family dwellings automatic fire systems. Delete this section in its entirety.

(16) Chapters 5 and 8: Replace the tables listed below with tables that have the same designation.

Table R502.3.1(1)	Table R802.5.1(1)
Table R502.3.1(2)	Table R802.5.1(2)

Table R502.3.3(1)	Table R802.5.1(3)
Table R502.3.3(2)	Table R802.5.1(4)
Table R502.5(1)	Table R802.5.1(5)
Table R502.5(2)	Table R802.5.1(6)
Table R802.4(1)	Table R802.5.1.(7)
Table R802.4(2)	Table R802.5.1(8)

(17) Delete Chapter 11 Energy Efficiency. The 2009 IECC will be used for energy efficiency requirements.

(18) Section P2603.5.1 Sewer depth. Delete "[NUMBER]" in both places and replace with "12."

(19) Section P2902.5.3 Lawn irrigation systems. In the first sentence delete the words "an atmospheric-type vacuum breaker, a pressure type vacuum breaker or." (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014, and Ord. #2015-06, June 2015)

12-603. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-604. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

CHAPTER 7

PROPERTY MAINTENANCE CODE

SECTION

12-701. Property maintenance code adopted.
12-702. Modifications.
12-703. Available in recorder's office.
12-704. Violations.

12-701. Property maintenance code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum regulations 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 existing structures, the International Property Maintenance Code, 2012 edition, as published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the property maintenance code; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-702. Modifications. (1) Whenever the property maintenance code refers to the "chief appointing authority" or the "administrative authority," it shall be deemed to be reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the property maintenance code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the property maintenance code.

(2) Section 101.1 Title. Insert "City of La Vergne, TN" in place of "[Name of Jurisdiction]."

(3) Section 102.3 Application of other codes. Delete the last sentence in its entirety.

(4) Section 103.1 General. Delete "Department of Property Maintenance" and substitute "Department of Building Codes and Safety."

(5) Section 103.5 Fees. Delete this section in its entirety.

(6) Section 111 Means of appeal. Where the term "Board of Appeals" appears it shall be substituted with "Construction Board of Adjustments and Appeals."

(7) Section 302.1 Sanitation. Add the following sentence to the end of the paragraph: "Furniture intended for indoor use shall not be stored or used outdoors."

(8) Section 302.4 Weeds. Delete this section in its entirety. Title 13-103 and/or 13-104 of the La Vergne Municipal Code shall be used to regulate the height of weeds and grass.

(9) Section 304.14 Insect screens. Amend this section by inserting the words "April 1 to October 1 in lieu of "[Date] to [Date]."

(10) Section 403.2 Bathroom and toilet rooms. Amend this section by adding an exception to read as follows: "Exception: When a listed and labeled recirculation fan is installed in accordance with the manufacturer's installation instructions, it shall not be required to discharge to the outdoors."

(11) Section 602.3 Heat Supply. Amend this section by inserting "October 1" and "April 30" in lieu of "[Date]" to "[Date]."

(12) Section 602.4 Occupiable work spaces. Amend this section by inserting "October 1" and "April 30" in lieu of "[Date]" to "[Date]." (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-703. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the property maintenance code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-704. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

CHAPTER 8

EXISTING BUILDING CODE

SECTION

12-801. Existing building code adopted.
12-802. Modifications.
12-803. Permit fees.
12-804. Available in recorder's office.
12-805. Violations.

12-801. Existing building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings in the City of La Vergne and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Existing Building Code, 2012 edition, published by the International Code Council, is hereby referred to, adopted and made a part hereof as if fully set out in this chapter, and is hereinafter referred to as the existing building code. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-802. Modifications. Whenever the existing building code refers to the "chief appointing authority" or the "administrative authority," it shall be deemed to be reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the existing building code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the existing building code. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-803. Permit fees. The schedule of fees listed in title 12, chapter 1, § 12-103 shall be used for this chapter. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-804. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the existing building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

12-805. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause

for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (Ord. #2006-18, Nov. 2006, as replaced by Ord. #2014-05, May 2014)

CHAPTER 9

SWIMMING POOL AND SPA CODE

SECTION

12-901. Swimming pool and spa adopted.
12-902. Modifications.
12-903. Available in recorder's office.
12-904. Violations.

12-901. Swimming pool and spa code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing swimming pools and spas in the City of La Vergne and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Swimming Pool and Spa Code, 2012 edition, published by the International Code Council, is hereby referred to, adopted and made a part hereof as if fully set out in this chapter, and is hereinafter referred to as the swimming pool and spa code. (as added by Ord. #2014-05, May 2014)

12-902. Modifications. Whenever the swimming pool and spa code refers to the "chief appointing authority" or the "administrative authority," it shall be deemed to be reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the swimming pool and spa code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the swimming pool and spa code. (as added by Ord. #2014-05, May 2014)

12-903. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the swimming pool and spa code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2014-05, May 2014)

12-904. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (as added by Ord. #2014-05, May 2014)

CHAPTER 10

PRIVATE SEWAGE DISPOSAL CODE

SECTION

12-1001. Private sewage disposal code adopted.
12-1002. Modifications.
12-1003. Available in recorder's office.
12-1004. Violations.

12-1001. Private sewage disposal code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing private sewage disposal in the City of La Vergne and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Private Sewage Disposal Code, 2012 edition, published by the International Code Council, is hereby referred to, adopted and made a part hereof as if fully set out in this chapter, and is hereinafter referred to as the private sewage disposal code. (as added by Ord. #2014-05, May 2014)

12-1002. Modifications. Whenever the private sewage disposal code refers to the "chief appointing authority" or the "administrative authority," it shall be deemed to be reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the private sewage disposal code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the private sewage disposal code. (as added by Ord. #2014-05, May 2014)

12-1003. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the private sewage disposal code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2014-05, May 2014)

12-1004. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (as added by Ord. #2014-05, May 2014)

CHAPTER 11

ACCESSIBLE AND USABLE BUILDINGS AND FACILITIES CODE

SECTION

12-1101. Accessible and usable buildings and facilities code adopted.
12-1102. Modifications.
12-1103. Available in recorder's office.
12-1104. Violations.

12-1101. Accessible and usable buildings and facilities code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing accessible and usable buildings and facilities in the City of La Vergne and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Code Council (ICC) A117.1-2009 Accessible and Usable Buildings and Facilities, 2009 edition, published by the International Code Council, is hereby referred to, adopted and made a part hereof as if fully set out in this chapter, and is hereinafter referred to as the accessible and usable buildings and facilities code. (as added by Ord. #2014-05, May 2014)

12-1102. Modifications. Whenever the accessible and usable buildings and facilities code refers to the "chief appointing authority" or the "administrative authority," it shall be deemed to be reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the accessible and usable buildings and facilities code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the accessible and usable buildings and facilities code. (as added by Ord. #2014-05, May 2014)

12-1103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the accessible and usable buildings and facilities code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2014-05, May 2014)

12-1104. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (as added by Ord. #2014-05, May 2014)

CHAPTER 12

NATIONAL ELECTRICAL CODE

SECTION

12-1201. National electrical code adopted.
12-1202. Modifications.
12-1203. Available in recorder's office.
12-1204. Violations.

12-1201. National electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing electrical systems in the City of La Vergne; each and all of the regulations, provisions, conditions and terms of such 2008 National Electrical Code, published by the National Fire Protection Association, is hereby referred to, adopted and made a part hereof as if fully set out in this chapter, and is hereinafter referred to as the National Electrical Code. (as added by Ord. #2014-05, May 2014)

12-1202. Modifications. Whenever the National Electrical Code refers to the "chief appointing authority" or the "administrative authority," it shall be deemed to be reference to the board of mayor and aldermen. When the "building official" is named or referred to, it shall for the purposes of the National Electrical Code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the National Electrical Code. (as added by Ord. #2014-05, May 2014)

12-1203. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the National Electrical Code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2014-05, May 2014)

12-1204. Violations. Any person who shall violate or fail to comply with any of the provisions of this code shall be fined under the general penalty clause for this code of ordinances, or the permit may be revoked, or both fine and revocation of the permit may be imposed. (as added by Ord. #2014-05, May 2014)

CHAPTER 13

CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

SECTION

12-1301. Construction board of adjustment and appeals established.
12-1302. Membership, terms and vacancies.
12-1303. General administration.
12-1304. Duties of the board.
12-1305. Appeals to the board, fees.
12-1306. Public hearing.
12-1307. Board decisions.
12-1308. Stays of enforcement.

12-1301. Construction board of adjustment and appeals established. There is established a board called the construction board of adjustment and appeals which shall consist of seven (7) members, and which shall be appointed by a majority vote of the board of mayor and aldermen, and shall serve at the pleasure of the board of mayor and aldermen. (as added by Ord. #2018-15, July 2018 ***Ch3_9-3-19***)

12-1302. Membership, terms and vacancies. (1) Membership. Members shall be appointed from the general constituency of the City of La Vergne to include, to the extent reasonably possible, the broadest representation of people involved with or interested in the various and diverse aspects of the construction board of adjustment or appeals, having backgrounds, experience, talents and expertise in the areas of responsibility that would be beneficial to the city. Members of the board shall be residents of the City of La Vergne and shall serve without compensation.

(2) Terms and vacancies. Members shall be appointed for four (4) year terms. Members shall be eligible for re-appointment. Vacancies shall be filled for the unexpired term by a majority vote of the board of mayor and aldermen. Members shall vacate their membership by resignation or by removal by the board of mayor and aldermen. Members may be removed by the board of mayor and aldermen at the request of the chairman of the board and the chief building official if the member is absent from two (2) or more scheduled meetings in a row. (as added by Ord. #2018-15, July 2018 ***Ch3_9-3-19***)

12-1303. General administration. The board shall meet as needed. The board shall be empowered to adopt bylaws to govern the order of proceedings as well as a method for electing officers. At all meetings, four (4) members of the board shall constitute a quorum for the transaction of business and all questions before the board at the meeting shall be determined by a majority vote of those present. The city recorder or his designee shall be present

at all meetings of the board, and shall keep a full and accurate record of all business transacted by the board to be preserved in permanent form. The board shall not have any authority over employees of the city, the budget or property of the city, but shall act solely as an appeals board. The chief building official or his designee shall provide the necessary staff support for the work of the board and shall act as the liaison to the board of mayor and aldermen on the behalf of the board. (as added by Ord. #2018-15, July 2018 ***Ch3_9-3-19***)

12-1304. Duties of the board. (1) The board shall have the authority to hear appeals including, without limitation, the authority to hear appeals from a decision, notice, or order of the chief building official or his designee, or the Fire Chief or his designee, enforcing any provision of International Building Code, the International Plumbing Code, the International Fuel Gas Code, the International Energy Conservation Code, the International Mechanical Code, the International Residential Code, the International Property Maintenance Code, the International Existing Building Code, the International Swimming Pool and Spa Code, the International Private Sewage Disposal Code, the ICC/ANSI A117.1-2009, Accessible and Usable Buildings and Facilities, the National Electrical Code, or the International Fire Code, or, as such codes and standards have been adopted and amended by ordinance. The board shall have the power to modify or reverse any such decision, notice, or order upon a finding based on a preponderance of the evidence presented:

(a) That the true intent and meaning of any provision of the above-referenced codes and standards, or any of the rules legally adopted thereunder, have been incorrectly interpreted;

(b) That a provision of the above-referenced codes and standards on which the challenged decision, notice, or order is based does not apply under the circumstances;

(c) That an equally good or better form of construction is proposed;

(4) That the requirements of the above-referenced codes and standards are adequately satisfied by other means; and/or

(5) That the strict application of any requirement of the minimum property codes would cause an undue hardship for a party affected by the decision, order, or notice and relief from the strict application of such requirement would not create an undue risk to the health and safety of the occupants of the structure in question or the general public.

(2) The board shall also have the authority to hear appeals as established in title 7, chapter 2 of the La Vergne Municipal Code regarding the fire code and title 7, chapter 3 of the La Vergne Municipal Code regarding the life safety code. (as added by Ord. #2018-15, July 2018 ***Ch3_9-3-19***)

12-1305. Appeals to the board, fees. (1) Appeals to the board. Any person directly affected by a decision, notice, or order of the chief building

official or his designee, or the fire chief or his designee, enforcing any provision of the International Building Code, the International Plumbing Code, the International Fuel Gas Code, the International Energy Conservation Code, the International Mechanical Code, the International Residential Code, the International Property Maintenance Code, the International Existing Building Code, the International Swimming Pool and Spa Code, the International Private Sewage Disposal Code, the ICC/ANSI A117.1-2009, Accessible and Usable Buildings and Facilities, the National Electrical Code, or the International Fire Code, or, as such codes and standards have been adopted and amended by ordinance, shall have the right to appeal to the construction board of adjustments and appeals, provided that a written application for appeal is filed within twenty (20) calendar days from the date of the decision, notice, or order.

(2) Fees. Each written application to the construction board of adjustment and appeals shall be accompanied by a non-refundable filing fee of one hundred dollars ($100.00). (as added by Ord. #2018-15, July 2018 ***Ch3_9-3-19***)

12-1306. Public hearing. Upon receipt of an appeal, the board shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the appellant, unless appellant waives such notice, such notice to be sent to the address provided by the appellant listed on the written application for appeal. (as added by Ord. #2018-15, July 2018 ***Ch3_9-3-19***)

12-1307. Board decisions. The board may affirm, modify, or reverse the decision, notice, or order appealed from only by a vote of a majority of the board members hearing the appeal. The board may condition any relief on the appellant's performance of specific actions and may prescribe appropriate conditions and safeguards in conformity with applicable code(s) and standard(s). In addition, the board may prescribe a reasonable time limit within which any action required of the appellant shall be commenced or completed, or both. Violation of such conditions or time limits shall be deemed a violation of the applicable code(s) or standard(s). Each decision shall be in the form of a written order, setting forth the factual basis for the decision and any conditions or time limits placed on the relief afforded, if any. A copy of the decision shall be furnished to the appellant. The decision of the board shall be final, subject, however, to such remedy as an aggrieved party might have at law or in equity. (as added by Ord. #2018-15, July 2018 ***Ch3_9-3-19***)

12-1308. Stays of enforcement. An appeal from a decision, notice, or order (other than imminent danger notices and stop work orders) issued by the chief building official, or his designee, the fire chief, or his designee, shall stay

the enforcement of the notice and order until the appeal is heard by the board. (as added by Ord. #2018-15, July 2018 ***Ch3_9-3-19***)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. ABANDONED, WRECKED VEHICLES, ETC.

CHAPTER 1

MISCELLANEOUS

SECTION

13-101. Smoke, soot, cinders, etc.
13-102. Stagnant water.
13-103. Overgrown and dirty lots.
13-104. Weeds, bushes, shrubs, etc.
13-105. Open storage.
13-106. Health and sanitation nuisances.
13-107. Dead animals.
13-108. Swimming pools, spas or hot tubs.
13-109. Contractors to keep construction sites clean.
13-110. Violation and penalty.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1994 Code, § 13-101, as replaced by Ord. #2012-01, March 2012)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. It shall be unlawful for any person knowingly to allow any swimming pool, spa, or hot tub to be in an unclean or unsanitary condition or to be in a condition of disrepair, if such swimming pool, spa, or hot tub contains water, so as to be

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

detrimental to or to endanger the health, comfort, and safety of the public or to encourage the infestation of mosquitoes or other insects.[1] (1994 Code, § 13-102, as replaced by Ord. #2012-01, March 2012)

13-103. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of subsection (5) shall not apply to any parcel of property upon which an owner-occupied residence is located. The provisions of subsection (6) shall apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The city administrator shall designate an appropriate department or person to enforce the provisions of this section.

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

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

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

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

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[1]Municipal code reference

§ 13-102 applies to cases where the city wishes to prosecute the offender in city court.

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing before the city administrator or his designee.

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the city council to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Failure to make a request for a hearing within the aforementioned notice period shall without exception constitute a waiver of the right to a warning. Upon the filing of the notice with the office of the register of deeds in Rutherford County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These cost shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition or in the alternative, the codes enforcement and inspection division may cite the property owner and/or tenant to municipal court for violation of the ordinance provisions.

(6) When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property), the department or person designated by the city council to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. Failure to make a request for a hearing within the aforementioned notice period shall without exception constitute a waiver of the right to a hearing. The provisions in subsection (5) above shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars ($500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (5) above for these charges. In addition to or in the alternative, the

codes enforcement and inspection division may cite the property owner and/or tenant to municipal court for violation of the ordinance provisions.

(7) Judicial review; appeal. Any person aggrieved by an order or act of the town under the provisions of this subsection above may seek judicial review of the order or the act. The time period established in subsections (5) or (6) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1994 Code, § 13-103, as replaced by Ord. #2012-01, March 2012)

13-104. Weeds, bushes, shrubs, etc. (1) 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 codes enforcement and inspection division to cut such vegetation when it has reached a height of over one foot (1'), except for those parcels containing five (5) acres or more land area.

(2) Parcels containing five (5) acres or more. Parcels containing five (5) acres or more land area that fronts a public street or roadway or adjoins a developed area shall be cleared of all weeds, tall grass and other noxious vegetation within fifty feet (50') of the property line adjoining the developed area and within fifty feet (50') of the pavement edge of any street or roadway adjoining the subject parcel to and including the right-of-way to the pavement edge. Excluded here from are natural wooded areas containing trees four inches (4") in diameter or larger on the subject property. The property owner shall be responsible for mowing grass and noxious vegetation on the edge of the trees on the property, including areas along adjoining developed areas or public rights-of-way.

(3) Bushes, shrubs, hedges, and trees. Every owner or tenant of property shall periodically cut and trim the bushes, shrubs, hedges, and trees surrounding his residence or buildings so as to allow safe ingress and egress into and from the residence or building. It shall be unlawful for any person to cause or to allow bushes, shrubs, hedges, and trees to block ingress or egress into and from any door or window. It shall be unlawful for any person to fail to comply with an order by the codes enforcement and inspection division to cut or trim such bushes, shrubs, hedges, and trees when safe ingress and egress cannot be achieved from any door or window.

(4) Designation of public officer or department. The codes enforcement and inspection division shall be designated to enforce the provisions of this section.

(5) Notice to property owner. It shall be the duty of the codes enforcement and inspection division to serve notice upon the owner of record and tenant, if applicable, in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be posted on the property and if the property owner or tenant, if applicable, is known, then sent by certified United States mail, return receipt requested and by regular United States mail addressed to the last known address of the owner of record or tenant. The notice shall state that the owner of the property or tenant is entitled to a hearing, and shall, at the minimum, contain the following information:

(a) A brief statement that the owner and/or tenant is in violation of § 13-103 of the La Vergne Municipal Code, and that the property of such owner may be cleaned-up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing before the city administrator or his designee.

(6) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials) and/or does not request a hearing within the same time period, the codes enforcement and inspection division shall immediately cause the condition to be remedied at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. The city is authorized to use either internal labor and equipment or private contractors at its discretion to enforce the provisions of this section. Failure to make a request for a hearing within the aforementioned notice period shall without exception constitute a waiver of the right to a hearing. The city attorney is authorized to take legal action to collect the costs of clean up assessed against the property owner and to take any and all necessary actions to place a lien against the property for the costs of clean up if not paid. In addition to or in the alternative, the codes enforcement and

inspection division may cite the property owner and/or tenant to municipal court for violation of the ordinance provisions.

(7) Judicial review; appeal. Any person aggrieved by an order or act of the city under the provisions of this section may seek judicial review of the order or act. The time period established in subsection (6) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property conditions so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of vermin, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1994 Code, § 13-104, as replaced by Ord. #2012-01, March 2012)

13-105. Open storage. It shall be unlawful for the owner or occupant of a building, structure or property to utilize the premises of such property for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items. (1994 Code, § 13-105, as replaced by Ord. #2012-01, March 2012)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in 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.[1] (1994 Code, § 13-106, as replaced by Ord. #2012-01, March 2012)

13-107. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city clerk and dispose of such animal in such manner as the codes enforcement and inspection division shall direct. (1994 Code, § 13-107, as replaced by Ord. #2012-01, March 2012)

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[1]Municipal code reference

§ 13-106 can be used when the city seeks to clean up the swimming pool, spa, or hot tub at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in city court.

13-108. Swimming pools, spas or hot tubs. (1) Prohibition. It shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property swimming pools, spas, or hot tubs in an unclean or unsanitary condition or in a state of disrepair if such swimming pool, spa, or hot tub contains water so as to endanger the health, safety or welfare of other citizens or to encourage the infestation of mosquitoes or other insects.

(2) Designation of public officer or department. The codes enforcement and inspection division shall be designated to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the codes enforcement and inspection division to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be posted on the property and sent by registered or certified United States mail, addressed to the last known address of the owner of record and if the property owner is unknown, then notice shall be posted on the property. 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 § 13-108 of the La Vergne Municipal Code and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

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

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

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing before the city administrator or his designee.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the codes enforcement and inspection division shall immediately cause the condition to be remedied at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. The city is authorized to use either internal labor and equipment or private contractors at its discretion to enforce the provisions of this code. Failure to make a request for a hearing within the aforementioned notice period shall without exception constitutes a

waiver of the right to a hearing. The city attorney is authorized to take legal action to collect the costs of clean-up assessed against the property owner and to take any and all necessary action to place a lien against the property for the costs of clean up if not paid. In addition to or in the alternative, the codes enforcement and inspection division may cite the property owner to municipal court for violation of the ordinance provisions.

(5) Judicial review; appeal. Any person aggrieved by an order or act of the city under the provisions of the subsection above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(6) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property swimming pools, spas, or hot tubs in an unclean or unsanitary condition or in a state of disrepair if such swimming pool, spa, or hot tub contains water so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of mosquitoes and other insects under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1994 Code, § 13-108, as replaced by Ord. #2012-01, March 2012)

13-109. Contractors to keep construction sites clean. It shall be unlawful for the owner, agent or contractor in charge of any construction or demolition site to cause, maintain, permit or allow the accumulation of any litter on the site before, during or after completion of the construction or demolition project. (1994 Code, § 13-109, as replaced by Ord. #2012-01, March 2012)

13-110. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation. (1994 Code, § 13-110, as replaced by Ord. #2012-01, March 2012)

CHAPTER 2

SLUM CLEARANCE[1]

SECTION

13-201. Findings of board.
13-202. Definitions.
13-203. "Public officer" designated; powers.
13-204. Initiation of proceedings; hearings.
13-205. Orders to owners of unfit structures.
13-206. When public officer may repair, etc.
13-207. When public officer may remove or demolish.
13-208. Lien for expenses; sale of salvaged materials; other powers not limited.
13-209. Basis for a finding of unfitness.
13-210. Service of complaints or orders.
13-211. Enjoining enforcement of orders.
13-212. Additional powers of public officer.
13-213. Powers conferred are supplemental.
13-214. Structures unfit for human habitation deemed unlawful.
13-215. Violation and penalty.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (1994 Code, § 13-201, modified, as replaced by Ord. #2012-01, March 2012)

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

(2) "Governing body" shall mean the city council charged with governing the city.

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

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

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

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

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

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

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

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (1994 Code, § 13-202, modified, as replaced by Ord. #2012-01, March 2012)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building official of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (1994 Code, § 13-203, as replaced by Ord. #2012-01, March 2012)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority including but not limited to a representative from the codes enforcement and inspection division, or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (1994 Code, § 13-204, as replaced by Ord. #2012-01, March 2012)

13-205. <u>Orders to owners of unfit structures</u>. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

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

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (1994 Code, § 13-205, as replaced by Ord. #2012-01, March 2012)

13-206. <u>When public officer may repair, etc</u>. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (1994 Code, § 13-206, as replaced by Ord. #2012-01, March 2012)

13-207. <u>When public officer may remove or demolish</u>. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (1994 Code, § 13-207, as replaced by Ord. #2012-01, March 2012)

13-208. <u>Lien for expenses; sale of salvaged materials; other powers not limited</u>. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer 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 Rutherford County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the

costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the salvageable materials of such structure in accordance with the policies and procedures for the sale of surplus property 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 Rutherford County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of La Vergne to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1994 Code, § 13-208, as replaced by Ord. #2012-01, March 2012)

13-209. <u>Basis for a finding of unfitness</u>. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of La Vergne. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (1994 Code, § 13-209, as replaced by Ord. #2012-01, March 2012)

13-210. <u>Service of complaints or orders</u>. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Rutherford County, Tennessee, and

such filing shall have the same force and effect as other lis pendens notices provided by law. (1994 Code, § 13-210, as replaced by Ord. #2012-01, March 2012)

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

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (1994 Code, § 13-211, as replaced by Ord. #2012-01, March 2012)

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

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1994 Code, § 13-212, as replaced by Ord. #2012-01, March 2012)

13-213. <u>Powers conferred are supplemental</u>. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (1994 Code, § 13-213, as replaced by Ord. #2012-01, March 2012)

13-214. <u>Structures unfit for human habitation deemed unlawful</u>. It shall be unlawful for any owner of record to create, maintain or permit to be

maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2012-01, March 2012)

13-215. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day of an offense constitutes a separate violation. (as added by Ord. #2012-01, March 2012)

CHAPTER 3

JUNKYARDS

SECTION

13-301. Definitions.
13-302. Junkyard screening.
13-303. Screening methods.
13-304. Requirements for effective screening.
13-305. Maintenance of screens.
13-306. Utilization of highway right-of-way.
13-307. Non-conforming junkyards.
13-308. Permits and fees.
13-309. Designation of public officer or department.
13-310. Violation and penalty.

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

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers not specified within the La Vergne Zoning Ordinance.

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

(4) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of materials for the purpose of converting such items into a usable product.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city. (1994 Code, § 13-301, modified, as replaced by Ord. #2012-01, March 2012)

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (as added by Ord. #2012-01, March 2012)

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

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

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

(3) Architectural barriers. The utilization of:

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

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

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

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (as added by Ord. #2012-01, March 2012)

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

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

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

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

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (as added by Ord. #2012-01, March 2012)

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

If not replaced within thirty (30) days the city shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in

the fee plus interest to be assessed to the property and shall be combined with the subsequent taxation of the property by the city. (as added by Ord. #2012-01, March 2012)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (as added by Ord. #2012-01, March 2012)

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

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

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

(3) Abandoned junkyards shall no longer be lawful.

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

(5) The junkyard may not be extended or enlarged. (as added by Ord. #2012-01, March 2012)

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

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

(2) Each application for an original or renewal permit shall be accompanied by a fee established by the city council in the fee schedule which is not subject to either proration or refund.

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

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

(5) A permit is valid only while held by the permittee and for the location for which it is issued. (as added by Ord. #2012-01, March 2012)

13-309. Designation of public officer or department. The codes enforcement and inspection division shall be designated to enforce the provisions of this section. (as added by Ord. #2012-01, March 2012)

13-310. <u>Violation and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation. (as added by Ord. #2012-01, March 2012)

CHAPTER 4

ABANDONED, WRECKED VEHICLES, ETC.

SECTION

13-401. Abandoned, wrecked, dismantled or inoperative motor vehicle.
13-402. Presence of abandoned vehicles, etc. prohibited.
13-403. Notice to remove.
13-404. Responsibility for removal.
13-405. Notice procedure.
13-406. Failure to remove vehicle.
13-407. City court.
13-408. Violation and penalty.

13-401. Abandoned, wrecked, dismantled or inoperative motor vehicle. (1) Definitions. For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Chief of police" is the Chief of Police of the City of La Vergne.

(b) "City" is the City of La Vergne.

(c) "Junked motor vehicle" is any motor vehicle, as defined by subsection (1)(d), which does not have lawfully affixed thereto an unexpired license plate or the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.

(d) "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, buses, motorbikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf carts, campers and trailers. "Motor vehicles" shall also include airplanes and self-propelled boats, including watercraft such as jet skis, designed to travel along the water by motorized means.

(e) "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

(f) "Private property" shall mean any real property within the city which is privately owned and which is not public property as defined in this subsection.

(g) "Public property" shall mean any street or highway which hall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

(2) Storing, parking or leaving dismantled or other such motor vehicle prohibited. Storing, parking or leaving dismantled or other such motor vehicle prohibited. No person shall park, store, leave, or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition whether attended or not, upon any public or private property within the city for a period of time in excess of seventy-two (72) hours. (as added by Ord. #2012-01, March 2012)

13-402. Presence of abandoned vehicles, etc., prohibited. The presence of an abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled vehicle or parts thereof, on private or public property is hereby declared unlawful and is prohibited. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the city and properly operated in the appropriate business zone, pursuant to the zoning laws of the city, or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways, or any vehicle retained by the owner for antique collection purposes. (as added by Ord. #2012-01, March 2012)

13-403. Notice to remove. Whenever it comes to the attention of the La Vergne Police that a violation of §§ 13-401 or 13-402 as defined in this chapter has occurred or exists in the City of La Vergne, Tennessee a notice in writing shall be served upon the occupant of the land where the violation exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the violation and requesting removal of the junked motor vehicle in the time specified in this chapter. (as added by Ord. #2012-01, March 2012)

13-404. Responsibility for removal. Upon notice as provided in § 13-403 above, the owner of the abandoned, wrecked, dismantled, or inoperative vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. (as added by Ord. #2012-01, March 2012)

13-405. Notice procedure. (1) The police department of the city shall give written notice of removal to the owner or occupant of the private property where the vehicle is located at least thirty (30) days before the issuance of a citation. It shall constitute sufficient notice, when a copy of same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by certified mail to the owner or occupant of the private property at his last known address.

(2) Content of notice. The notice shall contain the request for removal within the time specified in this chapter, and the notice shall advise that upon

failure to comply with the notice to remove, the police department shall issue a citation against the owner or occupant of the property for violation of this chapter. (as added by Ord. #2012-01, March 2012)

13-406. Failure to remove vehicle. If the vehicle is not removed within thirty (30) days after written notice duly given pursuant to this chapter, the police department shall issue a citation for violation of this chapter to the person to whom the notice has been directed. (as added by Ord. #2012-01, March 2012)

13-407. City court. A hearing upon the citation for violation of this chapter shall be held in the city court before the city judge who shall adjudge this matter according to the facts and law presented therein. (as added by Ord. #2012-01, March 2012)

13-408. Violation and penalty. Violations shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2012-01, March 2012)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. GRADING, SOIL EROSION, AND SEDIMENTATION CONTROL.
4. RIGHT-OF-WAY MANAGEMENT.
5. BOARD OF ZONING APPEALS.
6. STORMWATER MANAGEMENT ORDINANCE.
7. STORMWATER USER FEE.
8. STORMWATER APPEALS AND ADVISORY BOARD.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

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

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor, and a member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for four (4) years each. Members may be removed by the board of mayor and aldermen at the request of the chairman of the board or committee and the city recorder, if the member is absent from two (2) or more scheduled meetings in a row. Upon more than one (1) vacancy, the mayor may at his discretion appoint one (1) or more of the new appointments in such a way as to allow each term to expire a year apart. The terms of the mayor and members selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (1994 Code, § 14-101, as replaced by Ord. #2011-26, Oct. 2011)

14-102. Organization, powers, duties, etc. The planning commission shall elect its own chairman from among its appointive membership for one (1) year. The transactions, rules, findings, and determinations of the planning commission shall be a matter of public record. The expenditures of the planning commission, exclusive of gifts, shall be within the amount appropriated by the board of mayor and aldermen of the City of La Vergne. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1994 Code, § 14-102)

14-103. Jurisdiction--subdivisions. The rules and regulations governing the subdivision of land heretofore adopted on March 25, 1980, by the La Vergne Planning Commission and as may be amended from time to time by the La Vergne Planning Commission, shall apply to all subdivisions of land within the area of the City of La Vergne, Rutherford County, Tennessee. (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 La Vergne shall be governed by Ordinance Number 90-5, titled "Zoning Ordinance, La Vergne, Tennessee," and any amendments thereto.[1] (1994 Code, § 14-201)

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[1]Ordinance No. 90-5, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

GRADING, SOIL EROSION, AND SEDIMENTATION CONTROL

SECTION

14-301. Purpose.
14-302. Rules applying to chapter.
14-303. Definitions.
14-304. Land disturbance permits.
14-305. Land disturbance permit fees.
14-306. Inspection and enforcement.
14-307. General criteria.
14-308. Adjustments.
14-309. Final inspection.
14-310. Appeals.
14-311. Penalties.
14-312. [Deleted.]
14-313. [Deleted.]
14-314. [Deleted.]

14-301. Purpose. The City of La Vergne has in the past experienced development causing the displacement of large quantities of earth. Significant problems resulting from such development are soil erosion and sedimentation. Sediment is the cause of contamination of water supplies and water resources and a major source of pollution. A build-up of sediment destroys valuable resources, clogs water courses and causes flooding which results in substantial damage to public and private lands. The result is a serious threat to the health, safety, and general welfare of the community.

Therefore, the purpose of this chapter is to substantially reduce erosion and sediment damage within the City of La Vergne and is designed to safeguard the health, safety, and general welfare of the citizens; to preserve the value of land throughout the city; to establish reasonable and accepted standards of design and procedures for development which prevent sediment damage; to prevent the pollution of streams, ponds, and other water courses of sediment; to minimize property damage by means of flooding and to preserve the natural beauty and aesthetics of the community. (1994 Code, § 14-301, as replaced by Ord. #2011-24, Oct. 2011)

14-302. Rules applying to chapter. For the purpose of this chapter, certain rules of construction shall apply herein as follows:

(1) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.

(2) The term "shall" is always mandatory and not discretionary; the words "may" and "should" are permissive in nature.

(3) Except as herein provided, all words used in this chapter shall have their common dictionary definition. (1994 Code, § 14-302, as replaced by Ord. #2011-24, Oct. 2011)

14-303. <u>Definitions</u>. (1) "Building permit." A general permit issued authorizing any owner, authorized agent, or contractor to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to perform any or to cause any such work to be done.

(2) "Cut." Portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface.

(3) "Developer." The person, firm, partnership, or corporation authorized by the owner to carry out the development of the land.

(4) "Development." The process of grading, clearing, filling, quarrying, construction, or reconstruction to improved or unimproved real estate or other similar activities when not excluded by exemptions from this chapter.

(5) "Erosion." The wearing away of land by action of wind, water, or gravity.

(6) "Erosion Prevention and Sediment Control (EPSC) plan." The plan required before a grading permit may be issued. The plan may be included as part of a preliminary plan required under another city ordinance or a separate plan following the specifications set out in this chapter.

(7) "Excavation." See cut.

(8) "Existing grade." The slope or elevation of existing ground surface prior to cutting or filling.

(9) "Fill." Portion of land surface or area to which soil, rock or other materials have been or will be added; height above original ground surface after the material has been or will be added.

(10) "Final grade." The final slope or elevation of the ground surface after cutting or filling.

(11) "Final plan." The approved erosion and sediment control plan. This plan may differ from the erosion and sediment control plan if adjustments or amendments are required by the city.

(12) "Inspector." The person designated by the city manager to issue grading permits and to carry out inspections of the permitted activities.

(13) “Land disturbance" Any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation. "Grading" shall be synonymous with "land disturbing activity."

(14) "Land disturbance permit." A permit issued to authorize land disturbance to be performed under the guidelines of this chapter.

(15) "Mulching." The application of plant or other suitable materials on the soil surface to conserve moisture, reduce erosion, and aid in establishing plant cover.

(16) "Owner." The legal owner of the property as recorded in the Rutherford County Register of Deeds office at the time of application of the grading permit. The person ultimately responsible for adhering to the provisions of this chapter.

(17) "Sediment." Rock, sand, gravel, silt, or other material deposited by action of wind, water, or gravity.

(18) "Sediment basin, trap, barrier, or perimeter dike." A barrier or dam built across a waterway or water course, or at other locations to retain sediment.

(19) "Soil stabilization." Measures which protect soil from erosion.

(20) "Stormwater appeals and advisory board." The body which has been delegated the authority by the Council of the City of La Vergne to hear appeals concerning decisions made by the city administrator or his designee as to the interpretation of the meaning of this code.

(21) "Stormwater Pollution Prevention Plan (SWPPP)" A written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

(22) "Stripping." Any activity which removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.

(23) "Use." Any purpose for which a building or other structure or a tract of land which may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or tract of land. (1994 Code, § 14-303, as replaced by Ord. #2011-24, Oct. 2011)

14-304. <u>Land disturbance permits</u>. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this chapter.

(1) <u>Land disturbance permit applicability</u>. Every person will be required to obtain a land disturbance permit from the city engineer in the following cases:

(a) Land disturbing activity disturbs one (1) or more acres of land;

(b) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;

(c) Land disturbing activity of less than one (1) acre of land, if in the discretion of the city engineer or other appropriate authority, such activity poses a threat to water, public health, or safety; and

(d) The creation and use of borrow pits.

(2) Land disturbance permit application. (a) Application for a land disturbance permit on sites requiring a "Tennessee General Permit for Stormwater Discharges from Construction Activities" shall require the following be submitted to the city engineer for review and approval:

(i) The Notice of Intent (NOI) required by TDEC for coverage under the "Tennessee General Permit for Stormwater Discharges from Construction Activities."

(ii) The Notice of Coverage (NOC) proving coverage under the "Tennessee General Permit for Stormwater Discharges from Construction Activities."

(iii) The Stormwater Pollution Prevention Plan (SWPPP) prepared for coverage under the "Tennessee General Permit for Stormwater Discharges from Construction Activities."

(iv) Separate sheets, at a scale not to exceed one inch (1") equal to fifty feet (50'), for pre-construction, construction, and post construction stormwater BMPs. For site disturbances less than five (5) acres, at lease two (2) separate EPSC plan sheets shall be developed. At lease two (2) stages shall be identified, with associated EPSC measures addressed. The plan stages shall be addressed separately in plan sheets, with each reflecting the conditions and EPSC measures necessary to manage stormwater runoff, erosion and sediment during the initial land disturbance (initial grading) and the conditions and EPSC measures necessary to manage stormwater, erosion and sediment at final grading. For site disturbances more than five (5) acres at least three (3) separate EPSC sheets shall be developed. Three (3) stages shall be identified. The first plan sheet should reflect the conditions and EPSC measures necessary to manage stormwater runoff during the initial land disturbance (initial grading). The second plan sheet shall reflect the conditions the EPSC measures necessary to manage stormwater runoff from interim land disturbance activities. The third plan sheet shall reflect the conditions and EPSC measures necessary to manage stormwater runoff, erosion and sediment at final grading.

(b) Application for a land disturbance permit on sites which pose a threat to water, public health, or safety, as determined by the city engineer or other appropriate authority, shall require the following be submitted for review and approval:

(i) Name of applicant;

(ii) Business or residence address of applicant;

(iii) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;

(iv) Address and legal description of subject property including the tax reference number and parcel number of the subject property;

(v) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;

(vi) A statement indicating the nature, extent and purpose of the land disturbing activities including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.

(vii) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits.

(viii) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the City of La Vergne from imposing additional development requirements and conditions, commensurate with this chapter, on the development of property covered by those permits.

(ix) Additional information and calculations as deemed necessary by the city engineer.

(3) Review and approval of land disturbance permit application. The city engineer will review each application for a land disturbance permit to determine its conformance with the provisions of this chapter. The city engineer shall provide one (1) of the following responses in writing:

(a) Approval of the permit application;

(b) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or

(i) If the city engineer has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the city engineer. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the city engineer.

(c) Denial of the permit application, indicating the reason(s) for the denial.

(d) No development plans will be released until the land disturbance permit has been approved.

(4) Permit duration. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not

commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction.

(5) Performance bonds. (a) The City of La Vergne shall require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMP(s) approved under the permit. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City of La Vergne. Alternatively the City of La Vergne shall have the right to estimate the cost of construction.

(b) The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP(s) has been installed in accordance with the approved plan and other applicable provisions of this chapter. The city engineer or designee will make a final inspection of the structural BMP(s) to ensure that it is in compliance with the approved plan and the provisions of this chapter. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the city engineer. (1994 Code, § 14-304, as replaced by Ord. #2011-24, Oct. 2011)

14-305. Land disturbance permit fees. If the total area of the property being graded is less than one (1) acre, the grading permit fee shall be fifty dollars ($50.00). If the total area of the property being graded is one (1) acre of more, the grading permit fee shall be one hundred dollars ($100.00). (1994 Code, § 14-305, as replaced by Ord. #2011-24, Oct. 2011)

14-306. Inspection and enforcement. The requirements of this chapter shall be enforced by the city administrator or his designee who shall inspect all the work, land disturbance or construction involved. If the designee finds any person, firm, or entity engaged in land disturbing activities without having obtained a required land disturbance permit, he shall issue a stop order. In addition, if anyone is found conducting or to have conducted land disturbing activities in violation of this chapter or any approved plan the designee may require compliance or refuse to approve further work and/or issue a stop order pending a hearing before the board of adjustments and appeals.

If the city administrator or his designee determines that significant erosion or related problems are occurring on a graded site despite approved protective practices, he shall require the permit holder to take additional corrective actions to protect the adversely affected area. The specifications of the additional measures shall be part of the amended erosion and sediment control plan.

If it is determined that the permit holder has failed to comply with the approved plan, the inspector shall immediately serve upon the owner, developer, or contractor, a correction notice setting forth the measures needed to come into compliance and specifying a time for such compliance. Failure to comply within the time specified shall subject permittee to revocation of the permit, and he shall be deemed in violation of the chapter requirements and subject to the penalties provided therein.

Stormwater discharges coming from a permitted site with an objectionable color contrast to receiving waters could also be in violation to the Stormwater Management Ordinance, title 14 chapter 6 of the municipal code. (1994 Code, § 14-306, as replaced by Ord. #2011-24, Oct. 2011)

14-307. General criteria. The following general criteria are minimum requirements for controlling erosion and sedimentation from land-disturbing activities and should be satisfied in each approved erosion-sediment control plan. No permit issued using the general criteria is intended to restrict the use of other innovative practices or modifications to the specified practices if such practices are thoroughly described and detailed and approved given as part of a supplement to the approved plan prior to installation.

(1) Establishment of permanent vegetation. A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved which, in the opinion of the city administrator or his designee, is mature enough to control soil erosion satisfactorily and to survive seasonal weather conditions. If it is determined by the city administrator that the vegetation will not withstand seasonal weather conditions, the release of unobligated monies or bonds shall be determined by the board of adjustments and appeals.

(2) Protection of adjacent properties. Properties adjacent to the site of land disturbance shall be protected from sediment deposition. This may be accomplished by preserving a well vegetated buffer stip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, filters, or dikes, or sediment basins, or by a combination of such measures.

Vegetated buffer strips may not be used alone.

(3) Cut and fill slopes. Cut and fill slopes must be designed and constructed in a manner which will minimize erosion. Consideration must be given to the length and steepness of the slope, the soil type, upslope drainage

area, groundwater conditions, and other applicable factors. Slopes which are found to be eroding excessively within one (1) year of the construction must be provided with additional slope stabilizing measures until the problem is corrected.

The following guidelines are provided to aid site planners and plan reviewers in developing an adequate design.

(a) Topsoil for the area should be stockpiled and then used for replacement on the graded area.

(b) Roughened soil surfaces are generally preferred to smooth surface on slopes.

(c) Diversions should be constructed at the top of long steep slopes which have significant drainage areas above the slope. Diversions or terraces may also be used to reduce slope length.

(d) Concentrated stormwater should not be allowed to flow down or out of fill slopes unless contained within an adequate temporary or permanent channel, flume, or slope drain structure.

(e) Wherever a slope face crosses a water seepage plane which endangers the stability of the slope, adequate drainage or other protection should be provided.

(4) Protection of storm sewer inlets. All storm sewer inlets which are made operable during construction shall be protected so that sediment-laden water is necessary, precautions must be taken to stabilize the work area during construction to minimize erosion.

(5) Work in stream channel. The channel (including bed and banks) must always be re-stabilized immediately after in-channel work is completed.

Where a live (wet) water course must be crossed by construction vehicles regularly during construction, a temporary stream crossing must be provided, the design of which must be approved by the city administrator or his designee.

(6) Underground utility construction. The construction of underground utility lines shall be subject to the following criteria:

(a) No more than five hundred feet (500') of open trench will be allowed at one time.

(b) Where consistent with safety and space considerations, excavated materials are to be placed on the uphill side of trenches.

(c) Trench dewatering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems, or offsite property.

(7) Construction access routes. Off-site vehicle tracking of sediments and the generation of dust shall be minimized. A stabilized construction access (a point of entrance/exit to a construction site) shall be described and implemented, as needed, to reduce the tracking of mud and dirt onto public roads by construction vehicles. The design of the construction access should at a minimum, be consistent with the requirements and recommendations contained in the current edition of the Tennessee Erosion and Sediment Control

Handbook. Where sediment is transported onto a public road surface, the roads, shall be cleaned thoroughly at the end of each day or more often if deemed necessary. Sediment shall be removed from roads by shoveling or sweeping and be transported to a sediment-controlled disposal area. Street washing shall be allowed only after sediment is removed in this manner.

(8) Disposition of temporary measures. All temporary erosion and sediment-control measures shall be disposed of within thirty (30) days after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the city manager or his designee. Trapped sediment and other disturbed soil areas resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sediment.

(9) Maintenance. All temporary and permanent erosion and sediment-control practices shall be maintained and repaired as needed by property owners to assure continued performance of their intended function, as determined by the city administrator or his designee.

(10) The construction-phase erosion prevention controls shall be designed to eliminate (or minimize if complete elimination is not possible) the dislodging and suspension of soil in water. Sediment controls shall be designed to retain mobilized sediment on site to the maximum extent practicable.

(11) The design, inspection, and maintenance of Best Management Practices (BMPs) as described in the Stormwater Pollution Prevention Plan (SWPPP) must be prepared in accordance with good engineering practices and, at a minimum, shall be consistent with the requirements and recommendations contained in the current edition of the Tennessee Erosion and Sediment Control Handbook. In addition, all control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications (where applicable). All control measures selected must be able to slow runoff so that rill and gully formation is prevented.

(12) Off-site sediment. If sediment escapes the permitted area, off-site accumulations of sediment that have not reached a stream must be removed at a frequency sufficient to maximize off-site impacts (e.g. fugitive sediment that has escaped the construction site and has collected in a street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain and/or so that it does not pose a safety hazard to users of public streets). A land disturbance permit does not authorize access to private property. Arrangements concerning removal of sediment on adjoining property must be settled by the permittee with the adjoining landowner.

(13) Sediment removal. Sediment should be removed from sediment traps, silt fences, sedimentation ponds, and other sediment controls as recommended in the Tennessee Erosion and Sediment Control Handbook, and must be removed when design capacity has been reduced by fifty percent (50%).

(14) Removal of vegetation. Pre-construction vegetative ground cover shall not be destroyed, removed or disturbed more than fifteen (15) days prior

to grading or earth moving unless the area is seeded and/or mulched or temporary cover is installed.

Clearing and grubbing must be held to the minimum necessary for grading and equipment operation. Existing vegetation at the site should be preserved to the maximum extent practicable.

(15) Construction phasing. Construction phasing is required on all projects regardless of size as a major practice for minimizing erosion and limiting sedimentation. Construction must be phased to keep the total disturbed area less than fifty (50) acres at any one time. Areas of the completed phase must be stabilized within fifteen (15) days. No more than fifty (50) acres of active soil disturbance is allowed at any time during the construction project. This includes off-site borrow or disposal areas.

The fifty (50) acre limitation does not apply to linear construction projects (such as roadway, pipeline, and other infrastructure construction activities) if the following conditions are met:

(a) Where no one (1) area of active soil disturbance is greater than fifty (50) acres and the various areas of disturbance have distinct receiving waters; or

(b) Where contiguous disturbances amount to greater than fifty (50) acres, but no one (1) district water is receiving run off from more than fifty (50) disturbed acres; or

(c) With the department's written concurrence, where more than fifty (50) acres of disturbance is to occur and where one (1) receiving water will receive run-off from more than fifty (50) acres; or

(d) Where no one (1) area of active soil disturbance is greater than fifty (50) acres and the various areas of disturbance are more than five (5) miles apart.

In order for a linear project to take advantage of the fifty (50) acre rule exemption outlined in this subsection, the contractor shall conduct monthly site assessments until the site is permanently stabilized.

(16) Erosion prevention and sediment control measures must be in place and functional before earth moving operations begin, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the workday, but must be replaced at the end of the workday.

(17) Stabilization. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed no later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased.

In the following situations, temporary stabilization measures are not required:

(a) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(b) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.

Steep slopes shall be temporarily stabilized not later than seven (7) days after construction activity on the slope has temporarily or permanently ceased.

Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

(18) Design of erosion and sediment control measures. Erosion prevention and sediment control measures must be prepared in accordance with good engineering practices and the latest edition of the Tennessee Erosion and Sediment Control Handbook. In addition, erosion prevention and sediment controls shall be designed to minimize erosion and maximize sediment removal resulting from a 2-year, 24-hour storm, as a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website http://hdsc.nws.noaa.gov/hdsc/pfds/orb/tn_pfds.html. When clay and other fine particle soils are present at the construction site, chemical treatment may be used to minimize amount of sediment being discharged. For construction sites discharging into a water body on the list of impaired waters or waters designated by TDEC as exceptional Tennessee waters shall be designed to minimize erosion and maximize sediment removal resulting from a 5-year, 24-hour storm, as a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website http://hdsc.nws.noaa.gov/hdsc/pfds/orb/tn_pfds.html.

(19) Sediment basin. For an on-site outfall which receives drainage from ten (10) or more acres, a minimum sediment basin volume that will provide treatment for a calculated volume of runoff from a 2-year, 24-hour storm and runoff from each acre drained, or equivalent control measures as specified in the Tennessee Erosion and Sediment Control Handbook, shall be provided until final stabilization of the site. For construction sites discharging into a water body on the list of impaired waters or waters designated by TDEC as Exceptional Tennessee waters a minimum sediment basin volume that will provide treatment for a calculated volume of runoff from a 5-year, 24-hour storm and runoff from each acre drained, or equivalent control measures as specified in the Tennessee Erosion and Sediment Control Handbook, shall be provided until final stabilization of the site. A drainage area of ten (10) or more acres includes both disturbed and undisturbed portions of the site or areas adjacent to the site, all draining through the common outfall.

(20) Settling basins. Muddy water to be pumped from excavation and work areas must be held in settling basins or filtered or chemically treated prior to its discharge into surface waters. Water must be discharged through a pipe, well-grassed or lined channel or other equivalent means so that the discharge does not cause erosion and sedimentation. Discharged water must not cause an objectionable color contrast with the receiving stream. (1994 Code, § 14-307, as replaced by Ord. #2011-24, Oct. 2011)

14-308. Adjustments. The city administrator may waive or modify any of the general criteria which are deemed inappropriate or too restrictive for site conditions, by granting an adjustment. Adjustments may be granted in writing under the following conditions:

(1) At the time of plan submission, an applicant may request adjustments to become part of the approved erosion and sediment-control plan. The applicant must explain the reasons for requesting adjustments in writing. Specific adjustments which are allowed must be documented on the approved plan.

(2) During construction, the applicant may request adjustments to the approved plan in writing. A response, in writing, approving or disapproving such request, should be given within five (5) working days. Without a written approval, no adjustment shall be considered valid. (1994 Code, § 14-308, as replaced by Ord. #2011-24, Oct. 2011)

14-309. Final inspection. Upon completion of the work specified in the final plan, the applicant shall request a final inspection and approval. Final inspection will occur within five (5) days. If upon final inspection. the city administrator or his designee would determine that the final plan has been completed with, he shall sign the appropriate blank on the grading permit, approving compliance with the plan. If he should determine that there has not been compliance, he shall so notify the applicant and state his reason for so deciding. The applicant may then correct any deficiencies and then request a final inspection and approval; or submit a performance bond with narrative stating when the unfinished work will be completed. (1994 Code, § 14-309, as replaced by Ord. #2011-24, Oct. 2011)

14-310. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty, decision or damage assessment as provided by this chapter may appeal said penalty, decision or damage assessment to the City of La Vergne's Stormwater Appeals and Advisory Board. Any person aggravated by a final decision of the board may seed review by a court competent jurisdiction. (1994 Code, § 14-310, as replaced by Ord. #2011-24, Oct. 2011)

14-311. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of La Vergne, shall be guilty of a civil offense.

(2) Penalties. Under the authority granted in Tennessee Code Annotated, § 68-221-1106, the City of La Vergne declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of La Vergne of not less than fifty dollars ($50.00) and not more than five thousand dollars ($5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the City of La Vergne may consider:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the City of La Vergne;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damage and costs. In addition to the civil penalty in § 14-314(2), the City of La Vergne may recover:

(a) All damages proximately caused by the violator to the City of La Vergne, which may include but not be limited to any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation including attorney's fees.

(b) The costs of the City of La Vergne's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) Other remedies. The City of La Vergne may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (1994 Code, § 14-311, as replaced by Ord. #2011-24, Oct. 2011)

14-312. [Deleted.] (1994 Code, § 14-312, as deleted by Ord. #2011-24, Oct. 2011)

14-313. [Deleted.] (1994 Code, § 14-313, as deleted by Ord. #2011-24, Oct. 2011)

14-314. [Deleted.] (1994 Code, § 14-314, as deleted by Ord. #2011-24, Oct. 2011)

CHAPTER 4

RIGHT-OF-WAY MANAGEMENT[1]

SECTION

14-401. General use of and construction in right-of-way.
14-402. Construction.
14-403. Relocation.
14-404. Restoration of city's rights of way.
14-405. Maintenance and workmanship.
14-406. Acquisition of facilities.
14-407. Reservation of city right-of-way rights.
14-408. Reservation of rights and privileges.
14-409. Street vacation.
14-410. Discontinuing use of facilities.
14-411. Hazardous substances.
14-412. Undergrounding of cable.
14-413. Construction codes.
14-414. Construction and use of poles.
14-415. Tree trimmings.

14-401. General use of and construction in right-of-way. Relationship with other laws. Construction work and maintenance of any and all facilities within the city's rights of way shall be done in accordance with the La Vergne Municipal Code, including but not limited to, LMC Title 16; City of La Vergne Standard Specifications for Road, Bridge and Municipal Construction; City of La Vergne Standard Plans for Municipal Construction; any other applicable ordinance, rule or policy; and any amendments thereto. The provisions of chapter 4 are meant to be supplemental to the, above provisions. In the event of a conflict between the above provisions and this section, the above provisions shall prevail. (1994 Code, § 14-401)

14-402. Construction. (1) All construction and maintenance of any and all facilities within the city's rights of way incident to grantee's cables, lines, piping, fibers, and appurtenances shall be and remain the grantee's responsibility regardless of who performs the construction. Grantee shall apply for and obtain all permits necessary for construction or installation of any facilities, and for excavating and laying any facilities, within the city's rights of way. Grantee shall pay all applicable fees upon issuance of the requisite

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[1]Ord. No. 97-07 (Feb. 1997) added this chapter as chapter 3 to title 14. However, since a chapter 3 was added by Ord. No. 95-8 (June 1995), these provisions were added here as Chapter 4.

construction permits by the city to grantee, and shall pay all inspection fees and other costs incurred by the city an a result of work authorized by such permit.

(2) Before beginning any construction, grantee shall provide the city with a construction schedule for work in the city's rights of way. As grantee's construction of facilities of the city's rights of way is completed on its location subsequently altered during the term of the permit, grantee shall periodically provide the city with maps showing the location of the installed facility in the city's rights of way, as built.

(3) Before beginning any work in the city's rights of way, grantee shall apply for and obtain appropriate permits from the city, and give appropriate notices to any other franchisees, licensees or permittees of the city, or other units of government owning or maintaining pipes, wires, conduits or other facilities which may be affected by the proposed excavation.

(4) When facilities pass over or under private or publicly owned property it shall be grantee's sole responsibility to obtain all necessary permission from the owner thereof before commencing work, and to notify all utility companies and property owners who may be subject to damage or inconvenience during such work. (1994 Code, § 14-402)

14-403. <u>Relocation</u>. The city shall have the right to require grantee to change the design or location of any of grantee's cables, lines, piping, fibers, and appurtenances within the city's rights of way when the public convenience or public interest would be served by such a change, and the expense thereof shall be paid by grantee. Should grantee fail to remove or relocate or redesign any such facilities by the date reasonably established by the city, the city may effect such removal or relocation or redesign, and the expense thereof shall be paid by grantee, including all costs and expenses incurred by the city due to grantee's delay. If the city requires grantee to relocate its facilities located within the city's rights of way, the city shall provide grantee with an alternate location within the city's rights of way. Nothing herein shall prevent grantee from participating in any alternative funding for relocation. (1994 Code, § 14-403)

14-404. <u>Restoration of city's rights-of-way</u>. Whenever grantee disturbs the surface of any right of way for any purpose, the grantee shall be responsible for restoration of the city's right of way and its surface within the area affected by the excavation unless the city authorizes itself in the street use permit to perform such restoration work. The cost of all restoration work, including the cost of inspection and supervision shall be paid by the grantee. All excavations made by grantee in the city's rights of way shall be properly safeguarded for the prevention of accidents. (1994 Code, § 14-404)

14-405. <u>Maintenance and workmanship</u>. (1) Grantee's cables, lines, piping, fibers, and appurtenances shall be constructed and maintained so as not to interfere with sewers, water pipes, conduits or any other property of the city,

or with any other pipes, wires, conduits, structures or other facilities that may have been laid in the city's rights of way by or under the city's authority.

(2) Grantee shall operate its system so as to prevent injury to the city's property or property belonging to any person within the city, grantee, at its own expense, shall repair, renew, change and improve its facilities from time to time as may be necessary to accomplish this purpose.

(3) Grantee shall not construct its system in any manner that requires any subscriber to install any cable, wire, conduits or other facilities, under or over a right of way. (1994 Code, § 14-405)

14-406. <u>Acquisition of facilities</u>. Upon Grantee's acquisition of facilities in any city right of way, or upon the addition or annexation to the city of any area in which grantee owns or operates any facility in any city right of way, the grantee shall, at the city's request, submit to the city a statement and as-built plans describing all existing facilities, whether authorized by franchise, permit, license or other prior right, and depicting the location of all such facilities with such specificity as the city property may reasonably require. Such facilities shall immediately be subject to the terms of this chapter, and shall be brought into compliance with it as soon as practicable. In the event the new facilities or annexed area have characteristics that make literal application of any term of the chapter inappropriate, the parties will negotiate in good faith to modify the chapter solely with respect to such characteristics and only to the extent necessary to achieve consistency with the purposes of this chapter. (1994 Code, § 14-406)

14-407. <u>Reservation of city right-of-way rights</u>. Nothing in this chapter shall prevent the city from constructing, maintaining, or repairing any city right of way, or public work or improvement in the city's rights of way. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of grantee's cables, lines, piping, fibers, and appurtenances. However, if any of the grantee's system will interfere with the construction maintenance, or repair of any city right of way or public work or improvement in the city's rights of way, at its own expense the grantee shall remove or relocate its system as the city directs. Should the grantee fail no remove, adjust or relocate its facilities by the date established by the city's written notice to grantee, the city may effect such removal, adjustment or relocation and recover the cost thereof from the grantee, including all costs and expenses incurred by the city due to grantee's delay. (1994 Code, § 14-407)

14-408. <u>Reservation of rights and privileges</u>. Nothing in this chapter shall deprive the city of any rights or privileges which it now has, or which may hereafter be conferred upon it, including any rights to exercise its police powers in the regulation and control the use of the rights-of-way. (1994 Code, § 14-408)

14-409. Street vacation. If any street or portion thereof used by grantee is vacated by the city during the term of their agreement, unless the city council specifically reserves to grantee the right to continue its installation in the vacated street, grantee shall, without delay or expense to the city, remove its facilities from such street and the expense thereof shall be paid by grantee. (1994 Code, § 14-409)

14-410. Discontinuing use of facilities. Whenever grantee intends to discontinue using any facility or capacity within the city's rights of way, grantee shall submit for the City of La Vergne's approval a complete description of the facility and the date on which the grantee intends to discontinue using the facility or capacity. Grantee may remove the facility or request that the city permit it to remain in place. Notwithstanding the grantee's request that any such facility remain in place, the City of La Vergne may require the grantee to remove the facility from the city's right of way or modify or maintain the facility or capacity to protect the public health and safety or otherwise serve the public interest. The City of La Vergne may require the grantee to perform a combination of modification, maintenance, and/or removal of the facility and/or capacity. Grantee shall complete such removal or modification in accordance with a schedule set by the City of La Vergne. Until such time as grantee removes or modifies the facility as directed by the City of La Vergne, or until the rights to and responsibility for the facility are accepted by another person having authority to construct and maintain such facility, grantee shall be responsible for all necessary repairs and relocation's of the facility, as well as maintenance of the city's right of way, in the same manner and degree as it the facility were in active use, and grantee shall retain all liability for such facility. (1994 Code, § 14-410)

14-411. Hazardous substances. (1) Grantee shall comply with all applicable state and federal laws, statutes, regulations and orders concerning hazardous Substances relating to grantee's cable system in the city's rights of way. For purposes of section 14-311, "Hazardous Substances" shall be all substances so characterized in RCW 70.1050.020 (5).

(2) Grantee shall maintain and inspect its facilities located in the city's rights of way and immediately inform the city of any release of hazardous substances. Upon reasonable notice to grantee, the city may inspect grantee's facilities in the city's rights of way to determine if any release of hazardous substances has occurred, or may occur, from or related to grantee's facilities. In removing or modifying grantee's facilities as provided in this chapter, grantee shall also remove all residue of hazardous substances related thereto provided, however, if it is determined that grantee's owned facilities did not cause the release of hazardous substances, grantee shall have no duty to remove such substances.

(3) Grantee agrees to forever indemnify the city against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the city arising out of a release of hazardous substances arising from, connected to or incident to grantee's facilities in the city's rights of way. (1994 Code, § 14-411)

14-412. <u>Undergrounding of cable</u>. Grantee is strongly encouraged to locate and construct its present and future cables and other facilities underground. Grantee shall install its cables or other facilities underground wherever and at the same time existing utilities in the immediate vicinity are installed underground, where all utilities are placed underground, or where statute or ordinance requires utilities to be placed underground. Previously installed aerial cable shall be underground in concert, and on a reasonable cost-sharing basis, with other utilities pursuant to the general ordinances of the city or applicable state law, or in the event that a telecommunications utility or a public utility decides to underground its on a voluntary basis, unless the city grants an exception. (1994 Code, § 14-412)

14-413. <u>Construction codes</u>. Grantee shall strictly adhere to all building and zoning codes currently or hereafter in affect. Grantee shall arrange its lines, cables, and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said public or private property by any person. In the event at such interference, the city may require the removal or relocation of the grantee's lines, cables, and other appurtenances from the property in question at grantee's expense. (1994 Code, § 14-413)

14-414. <u>Construction and use of poles</u>. Grantee shall negotiate and enter into pole attachment agreements with utilities maintaining poles in the grantee's franchise area an terms acceptable to grantee and the affected utilities; provided, any obligations to provide fiber or capacity that might be imposed on grantee, shall be deemed fully satisfied for the term of their agreement and any extensions by grantee's agreement to install, at the time of grantee's own construction, fiber for the city in accordance with the following provisions:

(1) In the course of Grantee's own construction of its optical fiber system grantee shall include at the city's request additional fiber for the city's exclusive use for governmental purposes. Such purposes shall not include any lease, license, or other transfer to any third party of the right to use such fiber and shall not include any commercial use. However, such purposes may include the following uses, for which the city may receive payment to defray its costs of installation and maintenance.

(a) The City may share use of the fiber with other governments for governmental purposes where signals are mixed with city signals in the same transmission system- and the city may make fibers available to

schools as distinctly leased fibers or as part of a shared transmission system as described above.

(b) The city shall bear the incremental cost of adding the additional fiber during grantee's construction and the incremental cost, if any, of maintenance.

(c) The total amount of fiber installed for the city under this provision shall not exceed thirty (30) miles in distance, nor two hundred (200) fiber miles (number of fibers in a sheath times distance) without the express consent of grantee.

(d) Grantee's agreement to provide fiber under this section shall not be construed as acquiescence in or admission of the city's authority to impose such obligations unilaterally. (1994 Code, § 14-414)

14-415. Tree trimmings. The grantee must submit all construction plans and/or pruning plans to the city for initial review before any work begins. This review may take place concurrently with reviews required by the La Vergne Engineering Department. (1994 Code, § 14-415)

CHAPTER 5

BOARD OF ZONING APPEALS

SECTION

14-501. Creation and membership.
14-502. Term of members.
14-503. Procedures and powers.

14-501. Creation and membership. Pursuant to Tennessee Code Annotated, §13-7-205, the board of mayor and aldermen does hereby create the La Vergne Board of Zoning Appeals consisting of five (5) members. The members shall be appointed by the mayor with confirmation of the board of aldermen and shall serve at the pleasure of the board. The members shall serve without compensation. (Ord. #2007-32, Sept. 2007, as replaced by Ord. #2010-27, Oct. 2011, and Ord. #2019-08, June 2019 ***Ch3_9-3-19***)

14-502. Term of members. The initial members of the board of zoning appeals shall serve terms where one (1) member's terms shall expire each year. Upon the expiration of each initial term, a member shall be appointed for a four (4) year term. Members shall be eligible for re-appointment. Members may be removed from office by majority vote of the board of mayor and aldermen with or without cause. Members may be removed by the board of mayor and aldermen at the request of the chairman of the board and the city recorder, if the member is absent from two (2) or more scheduled meetings in a row. Vacancies shall be filled by an appointment by the mayor with the affirmation of the board of mayor and aldermen to serve out the remainder of the vacating member's term. (Ord. #2007-32, Sept. 2007, as replaced by Ord. #2010-27, Oct. 2011, Ord. #2011-26, Oct. 2011, and Ord. #2019-08, June 2019 ***Ch3_9-3-19***)

14-502. Procedures and powers. The procedures and powers of the board of zoning appeals shall be outlined in section 8.070 of the La Vergne Zoning Ordinance. (as added by Ord. #2010-27, Oct. 2011, and replaced by Ord. #2019-08, June 2019 ***Ch3_9-3-19***)

CHAPTER 6

STORMWATER MANAGEMENT ORDINANCE

SECTION

14-601. General provisions.
14-602. Definitions.
14-603. Stormwater system design and management objectives and standards.
14-604. Land disturbance permits.
14-605. Post construction.
14-606. Existing locations and developments.
14-607. Inspections.
14-608. Illicit discharges.
14-609. Enforcement.
14-610. Penalties.
14-611. Appeals.
14-612. Severability.

14-601. General provisions. (1) Title. This chapter shall be known as the "Stormwater Management Ordinance" for the City of La Vergne, Tennessee.

(2) Applicability and jurisdiction. The stormwater management ordinance shall govern all properties within the limits of the City of La Vergne, Tennessee.

(3) Purpose. It is the purpose of this ordinance to:

(a) Protect, maintain, and enhance the environment of the City of La Vergne and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(b) Enable the City of La Vergne to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 C.F.R. § 122.26 for stormwater discharges.

(c) Allow the City of La Vergne to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105 or as amended by the State of Tennessee.

(4) Authority. (a) The City of La Vergne shall have authority to implement and supplement this ordinance by reference to appropriate guidance or other related materials. In this regard, guidance or other related materials may be modified to meet the objectives and policies of this ordinance, so long as such modifications to guidance or other related materials are not contrary or beyond the intent of this ordinance. Guidance or other related materials shall not in any way endorse specific

commercially available products. However, they may refer to performance specifications, class of devices, construction, or management practice.

(b) The City of La Vergne shall have right-of-entry upon the property subject to this ordinance and any permit or document issued hereunder. The City of La Vergne shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this ordinance.

(c) Where a property, site or facility has security measures in place that require proper identification and clearance before entry into its premises, the person shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the City of La Vergne will be permitted to enter without delay for the purposes of performing specific responsibilities.

(d) The City of La Vergne shall have the right to operate and maintain on the person's property such devices as are necessary to conduct sampling and metering of the person's stormwater operations or discharges.

(e) Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the person at the written or verbal request of the City of La Vergne. The costs of clearing such access shall be borne by the person.

(f) The City of La Vergne may reserve the right to determine and impose inspection schedules necessary to enforce the provisions of this ordinance. Inspections may include, but are not limited to, the following:

(i) An initial inspection prior to land disturbance permit issuance approval;

(ii) A bury inspection prior to burial of any underground drainage structure;

(iii) Erosion prevention and sediment control inspections as necessary to ensure effective control of erosion and sedimentation; and

(iv) A final inspection when all work, including installation of storm management facilities, has been completed.

(v) Periodic inspections to ensure stormwater facilities are being maintained.

(5) Duty to provide information. The owner/operator shall furnish to the City of La Vergne any information that is requested to determine compliance with this ordinance or other information.

(6) Jurisdiction. The stormwater management ordinance shall govern all properties within the corporate limits of the City of La Vergne, Tennessee.

(7) Exemptions. The following activities are exempt from the provisions of this chapter and requirements of providing stormwater management:

(a) Agricultural land management activities;

(b) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources; and

(c) Developments that do not disturb more than one (1) acre of land. This exception may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners. This exemption does not apply to any discharge of sediment or other form of water pollution that may leave a small site, or if in the discretion of the City of La Vergne, the land disturbance activity poses a threat to water, public health, or safety.

(8) Savings provision. This ordinance shall not be construed as altering, modifying, vacating or nullifying any action now impending or any rights of obligations obtained by any person, firm or corporation through approval of a preliminary plat by the City of La Vergne Planning Commission or through the approval of any land disturbance permit or any other lawful action of the city prior to the adoption of this ordinance. (1994 Code, § 14-601, as replaced by Ord. #2011-25, Oct. 2011)

14-602. Definitions. For the purpose of this ordinance, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use.

(1) "Agricultural land management activities." The practice of cultivating the soil, producing crops, and raising livestock for the preparation and marketing of the resulting products.

(2) "As built plans." Drawings depicting conditions as they were actually constructed.

(3) "Best Management Practices (BMPs)." Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of La Vergne, and that have been incorporated by reference into this ordinance as if fully set out therein.

(4) "Channel." A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(5) "Community water." Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of La Vergne, Tennessee.

(6) "Contaminant." Any physical, chemical, biological, or radiological substance or matter in water.

(7) "Design storm event." A hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(8) "Discharge." Dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(9) "Easement." An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, City of La Vergne or other legal entity has in the land of another.

(10) "Engineer." An engineer duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of civil engineering.

(11) "Erosion." The removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

(12) "Erosion and sediment control plan." A written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(13) "Illicit connections." Illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(14) "Illicit discharge." Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 14-608.

(15) "Land disturbing activity." Any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(16) "Maintenance." Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(17) "Maintenance agreement." A document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(18) "Municipal Separate Storm Sewer System (MS4)." The conveyances owned or operated by the municipality for the collection and transportation of

stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(19) "National Pollutant Discharge Elimination System permit (NPDES permit)." A permit issued pursuant to 33 U.S.C. 1342.

(20) "Off-site facility." A structural BMP located outside the subject property boundary described in the permit application for land development activity.

(21) "On-site facility." A structural BMP located within the subject property boundary described in the permit application for land development activity.

(22) "Peak flow." The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(23) "Person." Any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(24) "Priority area." An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(25) "Runoff." That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(26) "Sediment." Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(27) "Sedimentation." Soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.

(28) "Soils report." A study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

(29) "Stabilization." Providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(30) "Stormwater." Stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(31) "Stormwater management." The programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(32) "Stormwater management facilities." The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(33) "Stormwater management plan." The set of drawings and other documents that comprise all the information and specifications for the

programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(34) "Stormwater runoff'." Flow on the surface of the ground, resulting from precipitation.

(35) "Structural BMPs." Devices that are constructed to provide control of stormwater runoff.

(36) "Surface water." Includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(37) "Top of bank." The uppermost limit of the active channel of a stream during "bank full" conditions, usually marked by a break in slope.

(38) "Watercourse." A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(39) "Watershed." All the land area that contributes runoff to a particular point along a waterway. (1994 Code, § 14-602, as amended by Ord. #2007-18, June 2007, and replaced by Ord. #2011-25, Oct. 2011)

14-603. <u>Stormwater system design and management objectives and standards</u>. (1) <u>Objectives</u>. The objectives of this ordinance are:

(a) To protect human life and health.

(b) To minimize the need for rescue and relief efforts associated with flooding.

(c) To eliminate any non-allowable discharges to the City of La Vergne's Municipal Separate Storm Sewer System (MS4) that impact water quality.

(d) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural stormwater resources.

(e) To ensure that potential home buyers are notified that property is in a flood area and generally increase the public awareness of flooding potential.

(f) To minimize prolonged business interruptions.

(g) To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in flood plains.

(h) To ensure a functional public and private stormwater quantity and quality management system that will not result in excessive maintenance costs.

(i) To encourage the use of natural and aesthetically pleasing design that maximizes preservation of natural areas.

(j) To guide the construction of stormwater management facilities by developing comprehensive master plans to address stormwater quantity and quality.

(k) To encourage preservation of floodplains, floodways and open spaces to protect and benefit the community's quality of life and natural resources.

(l) To encourage community stewardship of the City of La Vergne's water resources and their impacts on the community character and quality of life.

(2) Stormwater Best Management Practices (BMPs). To implement the objectives of this ordinance, the City of La Vergne adopts as its stormwater design and Best Management Practices (BMPs). These manuals include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded at the discretion of the City of La Vergne, based on improvements in engineering, science, monitoring and local maintenance in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(3) Stormwater quality. To implement the objectives of this ordinance, the following general stormwater quality policy statements shall apply:

(a) There shall be no distinctly visible floating scum, oil or other matter contained in the stormwater discharge.

(b) The stormwater discharge must not cause an objectionable color contrast in the receiving stream.

(c) Development will be required to minimize the impact to stormwater quality by applying structural and/or nonstructural management practices selected to address site-specific conditions. The goal for water quality treatment shall be eighty percent (80%) removal of total suspended solids from the first flush, defined by land use characteristics or at least one half inch (0.5") were not defined.

(d) Re-development activities will be required to follow stormwater quality requirements.

(e) No land disturbance activities, whether by private or public action, shall be performed in a manner that will negatively impact stormwater quality whether by flow restrictions, increased runoff, or by diminishing channel or floodplain storage capacity. Acceleration of erosion or sedimentation, or transport of other pollutants or forms of pollution, due to various land development activities must be controlled.

(4) Stormwater quantity. To implement the objectives of this ordinance, the following general stormwater quantity policy statements shall apply:

(a) New development shall meet a stormwater quantity level of service defined by:

(i) Designing road catch basins and connecting culverts to convey the 10-year, 24-hour design storm runoff.

(ii) Designing bridges, culverts, channels and crossdrains to pass the 25-year, 24-hour design storm runoff. Calculations shall also be provided for the 100-year, 24-hour design storm.

(b) Stormwater infrastructure shall be designed in a way that:

(i) Critical service roads are not inundated by more than three inches (3") of water over one-half (1/2) the roadway under a 100-year, 24-hour design storm event.

(ii) Other new roads shall be designed to have no more than six inches (6") of road overtopping at the 25-year, 24-hour design storm event.

(c) Re-development activities will be required to follow stormwater quantity requirements.

(d) No land disturbance activities, whether by private or public action, shall be performed in a manner that will negatively impact stormwater quantity whether by flow restrictions, increased runoff, or by diminishing channel or floodplain storage capacity.

(e) All site designs shall control the post-development peak, flow rates of stormwater discharge associated with 2-, 10-, 25-, 50-, and 100-year, 24-hour design storms to the pre-development peak flow rates. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(f) Hydrologic and hydraulic design calculations for the predevelopment and post-development conditions for the 2-, 10-, 25-, 50- and 100-year, 24-hour design storms shall be provided to the City of La Vergne. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance.

(g) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of La Vergne may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(h) To protect stream channels from degradation, specific channel protection criteria shall be provided.

(i) At the discretion of the City of La Vergne, stormwater discharges may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(j) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of La Vergne to determine if they are subject to additional stormwater design requirements. (1994 Code, § 14-603, as replaced by Ord. #2011-25, Oct. 2011)

14-604. <u>Land disturbance permits</u>. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance:

(1) <u>Land disturbance permit applicability</u>. Every person will be required to obtain a land disturbance permit from the city engineer in the following cases:

(a) Land disturbing activity disturbs one (1) or more acres of land;

(b) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acre of land;

(c) Land disturbing activity of less than one (1) acre of land, if in the discretion of the city engineer or other appropriate authority, such activity poses a threat to water, public health, or safety; and

(d) The creation and use of borrow pits.

(2) <u>Land disturbance permit application</u>. (a) Application for a land disturbance permit on sites requiring a "Tennessee General Permit for Stormwater Discharges from Construction Activities" shall require the following be submitted to the city engineer for review and approval:

(i) The Notice of Intent (NOI) required by TDEC for coverage under the "Tennessee General Permit for Stormwater Discharges from Construction Activities."

(ii) The Notice of Coverage (NOC) proving coverage under the "Tennessee General Permit for Stormwater Discharges from Construction Activities."

(iii) The stormwater pollution prevention plan prepared for coverage under the "Tennessee General Permit for Stormwater Discharges from Construction Activities."

(iv) Separate sheets, at a scale not to exceed one inch (1") equal to fifty feet (50'), for pre-construction, construction, and post construction storm water BMPs. For site disturbances less than five (5) acres, at lease two (2) separate EPSC plan sheets shall be developed. At lease two (2) stages shall be identified, with associated EPSC measures addressed. The plan stages shall be addressed separately in plan sheets, with each reflecting the conditions and EPSC measures necessary to manage stormwater runoff, erosion and sediment during the initial land disturbance (initial grading) and the conditions and EPSC measures necessary to manage stormwater, erosion and sediment at final grading. For site disturbances more than five (5) acres at least three (3) separate EPSC sheets shall be developed. Three (3) stages shall be identified. The first plan sheet should reflect the conditions and EPSC measures necessary to manage stormwater runoff during the initial land disturbance (initial grading). The second plan

sheet shall reflect the conditions the EPSC measures necessary to manage stormwater runoff from interim land disturbance activities. The third plan sheet shall reflect the conditions and EPSC measures necessary to manage stormwater runoff, erosion and sediment at final grading.

(b) Application for a land disturbance permit on sites which pose a threat to water, public health, or safety, as determined by the city engineer or other appropriate authority, shall require the following be submitted for review and approval:

(i) Name of applicant;

(ii) Business or residence address of applicant;

(iii) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;

(iv) Address and legal description of subject property including the tax reference number and parcel number of the subject property;

(v) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;

(vi) A statement indicating the nature, extent and purpose of the land disturbing activities including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.

(vii) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits.

(viii) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the City of La Vergne from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

(ix) Additional information and calculations as deemed necessary by the city engineer.

(3) Review and approval of land disturbance permit application. The city engineer will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. The city engineer shall provide one (1) of the following responses in writing:

(a) Approval of the permit application;

(b) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the

objectives of this ordinance, and issue the permit subject to these conditions; or

(i) If the city engineer has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the city engineer. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the city engineer.

(c) Denial of the permit application, indicating the reason(s) for the denial.

(d) No development plans will be released until the land disturbance permit has been approved.

(4) Permit duration. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction.

(5) Performance bonds. (a) The City of La Vergne shall require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMP(s) approved under the permit. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City of La Vergne. Alternatively the City of La Vergne shall have the right to estimate the cost of construction.

(b) The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP(s) has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The city engineer or designee will make a final inspection of the structural BMP(s) to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the city engineer. (1994 Code, § 14-604, as replaced by Ord. #2011-25, Oct. 2011)

14-605. Post construction. (1) As-built plans. All applicants are required to submit as-built plans for any stormwater management structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the city engineer. The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(3) Stormwater system long-term operation and maintenance. (a) The maintenance responsibilities for permanent stormwater runoff control facilities shall be responsibility of the owner.

(b) An engineer shall provide a stormwater infrastructure long-term operation and maintenance plan with an opinion of probably costs and schedule, subject to approval by the city engineer. The long-term operation and maintenance plan shall be in writing, shall be in recordable form, and shall, in addition to any other terms deemed necessary by the city engineer, contain a provision permitting inspection at any reasonable time by the city engineer or his designee of the facilities deemed critical to the public welfare.

(c) The City of La Vergne will have the authority to maintain facilities not properly maintained and to recover costs associated with the maintenance from the owner.

(d) Upon approval of the stormwater management facilities by the city engineer, the facility owner shall demonstrate the ability to garner and apply the financial resources necessary for long-term maintenance requirements. The funding mechanism shall be in a form approved by the City of La Vergne. The city will only approve funding

mechanism(s) for long-term maintenance responsibilities that can be demonstrated to be permanent or transferable to another entity with equivalent longevity.

(e) If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the City of La Vergne, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of La Vergne shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have ten (10) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City of La Vergne may take necessary corrective action. The cost of any action by the City of La Vergne under this section shall be charged to the responsible party.

(4) Waterway buffer policy. (a) A waterway buffer shall be defined as a strip of undisturbed vegetation either original or re-established, that borders streams and rivers, ponds, and lakes, wetlands, and springs.

(b) A waterway buffer shall be applied along all intermittent and perennial waterways as determined by the City of La Vergne (stormwater appeals and advisory board) or state. Waterway determination shall be conducted at the concept stage.

(c) The waterway buffer shall be defined as the area contained within a boundary established sixty feet (60') perpendicular beyond the top of bank on each side of the waterway.

(d) Waterways buffer variances:

(i) The stormwater appeals and advisory board may grant variances for the following:

(A) Those projects or activities where it can be clearly demonstrated that unique circumstances make it impracticable to meet some or all of the buffer requirements; or

(B) Those projects or activities serving a public need where no feasible alternative is available; or

(C) The granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with this chapter.

(D) The construction repair and maintenance of public improvements where avoidance and minimization of adverse impacts to wetlands and associated aquatic ecosystems have been addressed.

(ii) When considering a request for a variance, the stormwater appeals and advisory board may require additional information such as, but not limited to, site design, landscape planting, fencing, the placement of signs, and the establishment of water quality best management practices in order to reduce adverse impacts on water quality, streams, and wetlands.

(iii) When deemed appropriate by the stormwater appeals and advisory board, the water quality buffer zone width may be relaxed and permitted to become narrower as long as the width is not reduced to less than the minimum width required under applicable law, rules and regulations adopted by the State of Tennessee with regard to the same, but in no event shall it be less than twenty-five feet (25') perpendicular to the top of bank.

(e) Waterway buffers shall be recorded on the plat.

(f) Site development plans and plats prepared for recording shall:

(i) Define the boundaries of a waterway buffer on the subject property and be labeled as "waterway buffer."

(ii) Provide a note stating: "There shall be no clearing, grading construction or disturbance of vegetation in the waterway buffer except as permitted by the City of La Vergne."

(iii) Provide a note to reference any protective covenants governing waterway buffers stating: "waterway buffers shown hereon are subject to protective covenants which may be found in the land records and which restrict disturbance and use of these areas."

(g) Waterway buffers shall be protected during development activities. The waterway buffers shall be clearly marked during construction activities.

(h) Minor landscaping shall be allowed within the waterway buffer to repair erosion, damaged vegetation, or provide other maintenance. Landscaping or stabilization activities must have prior approval by the engineering department.

(i) Loss of floodplain storage due to activities within the waterway buffer is not permitted. Provided erosion prevention and sediment control, and water quality policies are adequately addressed, the following activities in the waterway buffer may be permitted with prior approval by the engineering department:

(i) Roads and utilities crossing waterways.

(ii) Pedestrian trails and walkways proximate to waterways.

(iii) Water quality devices. 1994 Code, § 14-605, as amended by Ord. #2005-23, Oct. 2005 and Ord. #2007-18, June 2007, and replaced by Ord. #2011-25, Oct. 2011)

14-606. Existing locations and developments. (1) Requirements for existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas shall be vegetated or covered using guidelines specified in the BMP manual and on a schedule acceptable to the city engineer.

(b) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(c) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:

(i) Ponds;
(ii) Constructed wetlands;
(iii) Infiltration systems;
(iv) Filtering systems;
(v) Open channel.

(2) Requirements for existing problem locations. The city engineer shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The City of La Vergne may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs. (1994 Code, § 14-606, as replaced by Ord. #2011-25, Oct. 2011)

14-607. Inspections. Inspections shall be performed to ensure that vegetation, erosion and sediment control measures and other protective measures identified in the site plan are kept in good and effective operating condition.

(1) Inspection requirements. (a) Inspections required by TDEC.

(b) Submission of inspection documentation upon request by the city engineer.

(c) Pre-construction stormwater management BMPs must be inspected and certified that the BMPs are in accordance with the approved plans.

(d) Construction stormwater management BMPs must be inspected and certified that the BMPs are in accordance with the approved plans, prior to granting building permit on sites requiring a land disturbance permit.

(e) Post construction BMPs must be inspected and certified that the BMPs are in accordance with the approved plans prior to release of surety.

(2) City of La Vergne inspections. City inspections may include, but are not limited to, the following:

(a) An initial inspection prior to issuance of a land disturbance permit;

(b) A bury inspection prior to burial of any underground drainage structure;

(c) Erosion prevention and sediment control inspections as necessary to ensure effective control of erosion and sedimentation;

(d) A final inspection when all work, including installation of storm management facilities, has been completed; and

(e) Periodic inspections to ensure stormwater facilities are being maintained. (1994 Code, § 14-607, as replaced by Ord. #2011-25, Oct. 2011)

14-608. Illicit discharges. (1) Prohibition of illicit discharges.

(a) Pursuant to the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) program administered by the Tennessee Department of Environment and Conservation (TDEC) illicit discharges to the MS4 are being defined as illegal. This is accomplished by identifying allowable non-stormwater discharges into the MS4 in the best interest of the City of La Vergne, Tennessee.

(b) Non-stormwater discharge means any discharge to the municipal separate storm sewer system except as permitted by subsection (2).

(c) Except as hereinafter provided, all non-stormwater discharges into the municipal separate storm sewer system are prohibited and declared to be unlawful.

(2) Allowable stormwater discharges. (a) Unless the City of La Vergne, TDEC, EPA or other regulatory agency has identified them as a source of pollutants to the "Waters of the State of Tennessee," the following nonstormwater discharges into the municipal separate storm sewer system are lawful:

(i) Water line flushing or other potable water sources;

(ii) Landscape irrigation or lawn watering with potable water;

(iii) Diverted stream flows;

(iv) Rising ground water;

(v) Groundwater infiltration to storm drains;

(vi) Pumped groundwater;

(vii) Foundation or footing drains;

(viii) Crawl space pumps;

(ix) Air conditioning condensation;

(x) Springs;

(xi) Non-commercial washing of vehicles;

(xii) Natural riparian habitat or wet-land flows;

(xiii) Swimming pools (if dechlorinated);

(xiv) Fire fighting activities;

(xv) Discharges specified in writing by the City of La Vergne as being necessary to protect public health and safety; and

(xvi) Dye testing as an allowable discharge if the City of La Vergne has so specified in writing.

(3) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city engineer in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city engineer within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. (1994 Code, § 14-608, as replaced by Ord. #2011-25, Oct. 2011)

14-609. Enforcement. (1) Enforcement authority. The city engineer or his designee shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the city engineer or other appropriate city official finds that any permittee or any other person discharging stormwater has violated or is violating this

ordinance or a permit or order issued hereunder, the city engineer or his designee may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the city engineer. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The City of La Vergne is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (d) and (e) below.

(c) Show cause hearing. The City of La Vergne may order any person who violates this ordinance or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(d) Compliance order. When the city engineer or his designee finds that any person has violated or continues to violate this ordinance or a permit or order issued hereunder, the city engineer or his designee may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the city engineer or his designee finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the city engineer or his designee may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(iii) Conflicting standards. Whenever there is a conflict between any standard contained in this ordinance and in the BMP

manual adopted by the City of La Vergne under this ordinance, the strictest standard shall prevail. (1994 Code, § 14-609, as replaced by Ord. #2011-25, Oct. 2011)

14-610. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of La Vergene, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the City of La Vergne declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the City of La Vergne of not less than fifty dollars ($50.00) and not more than five thousand dollars ($5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the City of La Vergne may consider:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the City of La Vergne;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalty in § 14-610(2), the City of La Vergne may recover:

(a) All damages proximately caused by the violator to the City of La Vergne, which may include but not be limited to any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation including attorney's fees.

(b) The costs of the City of La Vergne's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.

(5) Other remedies. The City of La Vergne may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (1994 Code, § 14-610, as replaced by Ord. #2011-25, Oct. 2011)

14-611. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty, decision or damage assessment as provided by this ordinance may appeal said penalty, decision or damage assessment to the City of La Vergne's Stormwater Administrative Board.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the City of La Vergne clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the City of La Vergne's Stormwater Administrative Board shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the City of La Vergne's Stormwater Administrative Board shall be final.

(3) Appealing decisions of the City of La Vergne. Any alleged violator may appeal a decision of the City of La Vergne's Stormwater Administrative Board pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (1994 Code, § 14-611, as replaced by Ord. #2011-25, Oct. 2011)

14-612. Severability. Should any article, section, subsection or provision of this Comprehensive Stormwater Management Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section, clause and provision being declared severable. If any provisions of this ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. (1994 Code, § 14-612, as replaced by Ord. #2011-25, Oct. 2011)

CHAPTER 7

STORMWATER USER FEE

SECTION

14-701. Definitions.
14-702. Stormwater user fee.
14-703. Stormwater user fee collection.
14-704. Stormwater user fee determination.

14-701. Definitions. For the purpose of this chapter, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Billing period" means the period identified from the first day of the month to the last day of the month. All bills rendered during a month are for the period beginning on the first day of the same month and are valid for that entire month unless otherwise identified. When city water service is discontinued during a month, the drainage fee due for that account shall be the pro rata portion of the month for which water services were active. When a developed property that does not receive city water service changes ownership during a billing period, the account existing on the first day of the billing period shall be liable for the pro rata portion of the drainage fee for that billing period from the first day of the billing period until the day the deed conveying the real property is executed.

(2) "Bonds" means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

(3) "Calendar year" means a twelve (12) month period commencing on the first day of January of any year.

(4) "City engineer" means the city engineer, or his designee.

(5) "Costs of construction" means reasonable costs incurred in connection with providing capital improvements to the system or any portion thereof, including, but not limited to, the costs of:

(a) Acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor,

(b) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith,

(c) Architectural, engineering, legal and other professional services,

(d) Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation,

(e) Any taxes or other charges which become due during construction,

(f) Expenses incurred by the city or on its behalf with its approval in seeking to enforce any remedy against any contractor or bus-contractor in respect of any default under a contract relating to construction,

(g) Principal of and interest of any bonds, and

(h) Miscellaneous expenses incidental thereto.

(6) "Debt service" means, with respect to any particular calendar year and any particular series of bonds, an amount equal to the sum of (i) all interest payable on such bonds during such calendar year, plus (ii) any principal installments of such bonds during such calendar year.

(7) "Developed property" means real property other than undisturbed property and vacant improved property.

(8) "Dwelling unit" means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(9) "Equivalent Residential Unit" or "ERU" means the average impervious area of residential developed property per dwelling unit located within the city and as established by the board of mayor and aldermen.

(10) "ERU rate" means a utility fee charged on each ERU as established by the board of mayor and aldermen.

(11) "Exempt property" means property owned and/or operated by the City of La Vergne, public rights-of-way, public streets, public alleys, and public sidewalks.

(12) "Extension and replacement" means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the system, or land acquisitions for the System and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

(13) "Impervious area" means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as undisturbed property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undisturbed property, including, but not limited to, roofs, roof extensions, patios, porches, driveway, sidewalks, pavement and athletic courts.

(14) "Nonresidential developed property" means developed property that is not utilized for dwelling units within the city.

(15) "Operating budget" means the annual operating budget adopted by the city for the succeeding fiscal year.

(16) "Operations and maintenance" means the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

(17) "Revenues" mean all rates, fees, assessments, rentals or other charges or other income received by the stormwater user fee fund, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the city, all as calculated in accordance with sound accounting practice.

(18) "Stormwater management system" or "system" means the existing stormwater management of the city and all improvements thereto which by this chapter are constituted as the property and responsibility of the city, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

(19) "Stormwater user fee" means a fee authorized by ordinance(s) established to pay operations and maintenance, extension and replacement and debt service.

(20) "Stormwater user fee fund" means the enterprise fund created by this chapter to operate, maintain and improve the system and for such other purposes as stated in this chapter.

(21) "Undisturbed property" means real property which has not been altered from its natural state by grading, dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.

(22) "User fee district" means the area or property within the corporate limits of the City of La Vergne.

(23) "Vacant improved property" means vacant property which is, or could reasonably be, served by any subdivision improvements that allow egress. (Ord. #2005-08, June 2005, as amended by Ord. #2009-27, Oct. 2009)

14-702. **Stormwater user fee**. Subject to the provisions of this chapter, each and every residential developed property, nonresidential developed property and vacant improved property, other than exempt property, within the

corporate limits of the city, and the owners and non-owner users thereof, have imposed upon them a stormwater user fee. In the event the owner and non-owner users of a particular property are not the same, the liability for each the owner and non-owner user for the user fee attributable to that property shall be joint and several. The stormwater user fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this chapter and the ERU and ERU rate which shall be established and changed from time to time by the board of mayor and aldermen. (Ord. #2005-08, June 2005)

14-703. <u>Stormwater user fee collection</u>. The stormwater user fee for metered property shall be billed and collected monthly with the monthly city's services utility bill for those properties within the corporate limits of the city utilizing the city utilities and billed and collected separately as stormwater user fees for those properties not utilizing other city utilities. All such bills for stormwater user fees shall be rendered monthly by the City of La Vergne. The stormwater user fee for those properties utilizing city utilities is part of a consolidated statement for utility customers which is generally paid by a single payment. In the event that a partial payment is received, the payment shall be applied pro-rata to each account billed on the consolidated statement in the proportion that an individual account bears to the total consolidated statement of all current charges for all accounts. The stormwater user fee for unmetered property shall be billed at regular intervals. All bills for stormwater user fees shall become due and payable in accordance with the rules and regulations of the City of La Vergne pertaining to the collection of the stormwater user fees. (Ord. #2005-08, June 2005)

14-704. <u>Stormwater user fee determination</u>. There is hereby established the following uniform schedule of rates for the services and use of facilities of the stormwater management system by the owner, tenant, or occupant of the premises using the services and facilities of said system:

(1) The board of mayor and aldermen, upon recommendation of the city engineer, shall, by resolution, establish reasonable rates for stormwater management systems for each single family residence: Each single family residence shall be billed at a flat fee established by the board of mayor and aldermen for an equivalent residential unit. An equivalent residential unit is hereby defined as the statistical average horizontal impervious area of detached single family residential units in the City of La Vergne.

(2) Parcels which are undeveloped shall be assessed a stormwater user fee. The bill shall be determined by dividing the total land area of the property, in square feet, by the area of an equivalent residential unit times a correction factor. The correction factor shall be based on the relative volume of runoff from an undeveloped property and that of a typical single family residence, under typical hydrologic conditions.

(3) For all nonresidential properties, that is enterprise, business establishment, building, or other occupancy not covered by subsections (1) and (2) of this section, the rate shall be computed based on the total impervious area of the property divided by the average impervious area of an equivalent residential unit times the rate established for an equivalent residential unit. The billing amount shall be updated by the city engineer based on any additions to the impervious areas as approved through the building permit process. (Ord. #2005-08, June 2005, modified)

CHAPTER 8

STORMWATER APPEALS AND ADVISORY BOARD

SECTION

14-801. Creation and membership of the stormwater appeals and advisory board.
14-802. Terms and vacancies.
14-803. General administration.
14-804. Duties of the board.
14-805. Appeals to the board.
14-806. Public hearing.
14-807. Appealing decisions of the board.

14-801. Creation and membership of the stormwater appeals and advisory board. Pursuant to Tennessee Code Annotated, § 68-221-1106, the City of La Vergne hereby creates a board to hear and decide appeals of the stormwater management ordinance and to make recommendations to the board of mayor and aldermen regarding the stormwater management ordinance. This board shall be called the "stormwater appeals and advisory board" (hereinafter referred to as "the board"). The board shall consist of seven (7) members, appointed by the mayor, subject to confirmation by the board of mayor and aldermen. Every effort shall be made to appoint six (6) members from the following general constituencies: one (1) member shall be from the profession of building contractors; one (1) member shall be from the profession of engineering; one (1) member shall be from the profession of agriculture; one (1) member shall be from the residential / commercial development community; one (1) member shall be a member of an environmental association; and one (1) member shall be a resident of the City of La Vergne without regard to the location of the member's residence. One (1) member shall be appointed by the mayor from the board of aldermen, subject to the confirmation by the board of mayor and aldermen. Members of the board shall serve without compensation, but may be reimbursed for reasonable and necessary expenses. Every effort shall be made to appoint residents of the City of La Vergne to the board. (Ord. #2005-28, Nov. 2005)

14-802. Terms and vacancies. Members shall be appointed for four (4) year terms and shall serve at the pleasure of the board. Members shall be eligible for re-appointment. Members may be removed from office by majority vote of the board of mayor and aldermen with or without cause. Members may be removed by the board of mayor and aldermen at the request of the chairman of the board or committee and the city engineer, if the member is absent from two (2) or more scheduled meetings in a row. Vacancies shall be filled by an appointment by the mayor, subject to confirmation by the board of mayor and

aldermen to serve out the remainder of the vacating member's term. The alderman appointed to the board shall vacate his/her position by resignation, upon departure from the board of mayor and aldermen, or by removal by the board of mayor and aldermen. (Ord. #2005-28, Nov. 2005, as replaced by Ord. #2011-26, Oct. 2011, and Ord. #2019-09, June 2019 ***Ch3_9-3-19***)

14-803. General administration. The board shall meet as needed. The board shall be empowered to adopt bylaws to govern the order of proceedings as well as a method for electing officers and keeping records. The city recorder or his designee shall be present at all meetings of the board, and shall keep a full and accurate record of all business transacted by the board to be preserved in permanent form. The board shall not have any authority over employees of the city, the stormwater management budget or property of the city, but shall act solely as an appeals and advisory board. The city engineer or his designee shall provide the necessary staff support for the work of the board and shall act as the liaison to the board of mayor and aldermen on the behalf of the board. (Ord. #2005-28, Nov. 2005)

14-804. Duties of the board. (1) The board is hereby authorized to hear and decide appeals of any order, decision or ruling of the city engineer or director of codes or their designee issued pursuant to the stormwater management ordinance. Following the hearing on an application for appeal, the board may affirm, reverse, modify or remand for more information, the order, decision or ruling of the city engineer or director of codes or their designee. In no event shall the board issue a decision that in any way conflicts or contradicts the stormwater management ordinance or any other federal, state or local laws or regulations relating to stormwater, wastewater, zoning or planning.

(2) The board shall also be authorized to hear and decide applications for a variance to the waterway buffer policy.

(3) The board shall also act as the advisory board for the planning of the stormwater management program for the City of La Vergne. The board shall make recommendations to the board of mayor and aldermen regarding the stormwater management ordinance. (Ord. #2005-28, Nov. 2005, as amended by Ord. #2007-18, June 2006)

14-805. Appeals to the board. (1) Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by these regulations may appeal said penalty or damage assessment to the board, created pursuant to the stormwater management ordinance. The appeal shall be in writing and filed with the city recorder within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Any person who applies for a variance to the waterway buffer policy must file an application with the city recorder. A fee of one hundred

dollars ($100.00) payable to the City of La Vergne shall be charged to cover partial review and processing of each application. (Ord. #2005-28, Nov. 2005, as amended by Ord. #2007-18, June 2006)

14-806. Public hearing. Upon receipt of an appeal or an application for a variance, the board shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the appellant, such notice to be sent to the address provided by the appellant on the notice of appeal. The decision of the board shall be final. (Ord. #2005-28, Nov. 2005, as amended by Ord. #2007-18, June 2006)

14-807. Appealing decisions of the board. Any alleged violator may appeal a decision of the board pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (Ord. #2005-28, Nov. 2005)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. CODES ADOPTED BY REFERENCE.
9. BOATING REGULATIONS OF THE STATE ADOPTED.
10. FINANCIAL RESPONSIBILITY LAW.
11. DRIVER EDUCATION COURSE.

CHAPTER 1

MISCELLANEOUS[2]

SECTION

15-101. Motor vehicle requirements.
15-102. Driving on streets closed for repairs, etc.
15-103. Careless driving.
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.

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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

[2]State law references
Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

15-110. Presumption with respect to traffic-control signs, etc.
15-111. School safety patrols.
15-112. Driving through funerals or other processions.
15-113. Clinging to vehicles in motion.
15-114. Riding on outside of vehicles.
15-115. Backing vehicles.
15-116. Projections from the rear of vehicles.
15-117. Causing unnecessary noise.
15-118. Vehicles and operators to be licensed.
15-119. Passing.
15-120. Damaging pavements.
15-121. Bicycle riders, etc.
15-122. Duty to stop in event of accident.
15-123. Duty to report accidents.
15-124. Fleeing an officer.
15-125. Avoidance of traffic control signs, etc.

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. Careless driving. Every person operating a vehicle upon the streets within the city shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and use of these streets and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. Failure to drive in such manner shall constitute careless driving and a violation of this section. (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.

(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) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. (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 unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (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, 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

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[1]Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

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)

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 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. 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, § 15-113)

15-114. 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, § 15-114)

15-115. 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, § 15-115)

15-116. <u>Projections from the rear of vehicles</u>. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1994 Code, § 15-116)

15-117. <u>Causing unnecessary noise</u>. 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, § 15-117)

15-118. <u>Vehicles and operators to be licensed</u>. 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, § 15-118)

15-119. <u>Passing</u>. 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, § 15-119)

15-120. <u>Damaging pavements</u>. No person shall operate or cause to be operated upon any street of the municipality 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, § 15-120)

15-121. <u>Bicycle riders, etc</u>. 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 knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1994 Code, § 15-121)

15-122. <u>Duty to stop in event of accident</u>. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to property shall immediately stop such vehicle at the scene of such accident,

and shall give his name and address and registration number of his vehicle to the person struck or to the driver or occupant of any vehicle collided with, and shall render to any person injured in such accident reasonable assistance. (1994 Code, § 15-122)

15-123. Duty to report accidents. The operator of any vehicle involved in an accident resulting in injury or death to any person or total property damage to an apparent extent of one hundred dollars or more shall immediately, by the quickest means of communication, give notice of such accident to the police department of the city. (1994 Code, § 15-123)

15-124. Fleeing an officer. It shall be unlawful for any driver of a motor vehicle willfully to fail or refuse to bring his vehicle to a stop, or otherwise flee or attempt to elude a pursuing police officer or vehicle when given visual or audible signal to bring his vehicle to a stop. The signal given by a police officer may be by hand, voice, emergency light, or siren. (1994 Code, § 15-124)

15-125. Avoidance of traffic control signs, etc. It shall be unlawful for the operator of any vehicle to leave the roadway and travel across private property, or public property devoted to other than highway use, to avoid compliance with an official traffic signal or an official traffic sign or for the purpose of avoiding obedience to directions given by a police officer or any traffic regulation or ordinance. (Ord. #2009-6, May 2009)

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 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)

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[1]Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. **Following emergency vehicles**. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (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. Generally, pursuant to Tennessee Code Annotated, § 55-8-152, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph. Speed limits enacted pursuant to this paragraph shall not apply at school entrances and exits to and from controlled access highways on the system of state highways.

When the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1994 Code, § 15-303, modified)

15-304. In congested areas. Whenever the board of mayor and aldermen determines upon the basis of an engineering or traffic investigation or study that any maximum speed set forth in the above sections is greater or less than is reasonable or safe under the conditions found to exist at any

congested area, intersection, or other place, the board of mayor and aldermen may declare by resolution reasonable and safe maximum or minimum limits thereat, which shall be effective when appropriate signs giving notice thereof are erected. Such a maximum or minimum speed limit may be declared to be effective at all times or at such times as are indicated upon signs. Differing limits may be established for differing times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speed. (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)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. When emerging from alleys, etc.
15-502. To prevent obstructing an intersection.
15-503. At railroad crossings.
15-504. At "stop" signs.
15-505. At "yield" signs.
15-506. At traffic-control signals generally.
15-507. At flashing traffic-control signals.
15-508. Stops to be signaled.

15-501. 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)

15-502. 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)

15-503. 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)

15-504. 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)

15-505. 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)

15-506. 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": 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.

(3) Steady red alone, or "Stop": Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection and shall remain standing until green or "Go" is shown alone. Provided, that a right turn on a red signal, generally, shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(4) Steady red with green arrow: 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.

(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)

15-507. 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, or if there is no crosswalk or limit line, 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)

15-508. 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, § 15-509)

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[1]State 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. Street parking prohibited.
15-605. Loading and unloading zones.
15-606. Presumption with respect to illegal parking.
15-607. Trains.
15-608. Approved on-street parking in planned density residential developments.

15-601. **Generally**. 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, as replaced by Ord. #2012-08, June 2012, and Ord. #2019-31, Aug. 2019 ***Ch3_9-3-19***)

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 feet (24'). (1994 Code, § 15-602, as replaced by Ord. #2012-08, June 2012, and Ord. #2019-31, Aug. 2019 ***Ch3_9-3-19***)

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 (1) 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, as replaced by Ord. #2012-08, June 2012, and Ord. #2019-31, Aug. 2019 ***Ch3_9-3-19***)

15-604. **Street parking prohibited**. No person shall park a vehicle on a city street or pedestrian way at any time, unless approved as provided in § 15-608. (1994 Code, § 15-604, as replaced by Ord. #2012-08, June 2012, and Ord. #2019-31, Aug. 2019 ***Ch3_9-3-19***)

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, as replaced by Ord. #2012-08, June 2012, and Ord. #2019-31, Aug. 2019 ***Ch3_9-3-19***)

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, as replaced by Ord. #2012-08, June 2012, and Ord. #2019-31, Aug. 2019 ***Ch3_9-3-19***)

15-607. **Trains**. It shall be unlawful for a railroad train to stop and block or obstruct any street crossing within the City of La Vergne for a period in excess of ten (10) minutes. (1994 Code, § 15-608, as amended by Ord. #2009-02, March 2009, as replaced by Ord. #2012-08, June 2012, and Ord. #2019-31, Aug. 2019 ***Ch3_9-3-19***)

15-608. **Approved on-street parking in planned density residential developments.** On-street parking shall not be prohibited in a Planned Density Residential ("PDR") development if approved by the board of mayor and aldermen for such PDR development; provided, however, that such on-street parking, once constructed, strictly conforms with the PDR development's design book requirements for such on-street parking as adopted and approved by the board of mayor and aldermen. (Ord. #2009-02, March 2009, as deleted by Ord. #2012-08, June 2012, and added by Ord. #2019-31, Aug. 2019 ***Ch3_9-3-19***)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.
15-702. Failure to obey citation.
15-703. Illegal parking.
15-704. Towing and impoundment of vehicles.
15-705. Disposal of "abandoned motor vehicles."
15-706. Violation and penalty.
15-707. Citation.

15-701. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the municipal court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1994 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1994 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1994 Code, § 15-703, as replaced by Ord. #2012-08, June 2012)

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[1]State law reference
Tennessee Code Annotated, § 7-63-101, et seq.

15-704. Towing and impoundment of vehicles. Members of the police department, and the codes enforcement officer, are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be towed, stored and retrieved in accordance with the provisions found in title 9, chapter 7 of the La Vergne Municipal Code. (1994 Code, § 15-704, as amended by Ord. #2009-02, March 2009)

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. 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 violations. If the offense is a parking violation, the offender may, within fourteen (14) days, have the charge against him disposed of by paying to the city court clerk 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 fourteen (14) days but before his court date, his fine shall be twenty dollars ($20.00). If he appears in city court and is found guilty, his fine shall be twenty dollars ($20.00) and he may be subject to paying court costs. (1994 Code, § 15-706, as amended by Ord. #2009-02, March 2009, and replaced by Ord. #2010-11, Aug. 2010)

15-707. Citation. For the purposes of this chapter, "citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense. (as added by Ord. #2019-30, Aug. 2019 ***Ch3_9-3-19***)

CHAPTER 8

CODES ADOPTED BY REFERENCE

SECTION

15-801. Adoption of state traffic statutes.

15-801. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, §16-18-302, the City of La Vergne adopts by reference as if fully set forth in this section:

(1) Tennessee Code Annotated, title 55, chapter 4, chapter 7, chapter 8, chapter 9, chapter 10, chapter 12, chapter 14, chapter 16 and chapter 50, as amended; provided, however, the maximum penalty for the specific violation is no more than a Class C misdemeanor offense, and the maximum civil penalty shall not be more than fifty dollars ($50.00).

(2) The City of La Vergne Municipal Court shall also possess jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, as amended, if and only if the state criminal statute mirrored, duplicated or cross-referenced is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty dollars ($50.00). (Ord. #2006-20, Oct. 2006, as replaced by Ord. #2019-29, Aug. 2019 ***Ch3_9-3-19***)

CHAPTER 9

BOATING REGULATIONS OF THE STATE ADOPTED

SECTION

15-901. Boating regulations of the state adopted.

15-901. Boating regulations of the state adopted. The city shall require every owner and/or operator and occupant of a watercraft being operated within the corporate limits to comply with the safety and boating regulations as set forth in Tennessee Code Annotated, title 69, chapter 10. To ensure the safety of the public on waters and waterways within the corporate limits, the following statutes shall be adopted by reference as if published in whole:
Tennessee Code Annotated:
Title 69, Chapter 10. Safety and Boating Regulations

Rules of Tennessee Wildlife Resources Agency:

- Chapter 1660-2-1 — Rules and Regulations for Boating Certificates.
- Chapter 1660-2-3 — Rules and Regulations Governing Classification of Vessels and Equipment and Lights Required.
- Chapter 1660-2-4 — Rules and Regulations Governing Reporting of Boating Accidents.
- Chapter 1660-2-7-.05 — Rules and Regulations Governing Operation of Vessels--Percy Priest Reservoir.
- Chapter 1660-2-8 — Issuance of Special Permits.
- Chapter 1660-2-9 — Rules and Regulations Governing Noise Level Standards.
- Chapter 1660-2-10 — Rules and Regulations Governing Personal Watercraft.

(1994 Code, § 15-901)

CHAPTER 10

FINANCIAL RESPONSIBILITY LAW

SECTION

15-1001. Compliance with financial responsibility required.
15-1002. Civil offense.
15-1003. Evidence of compliance after violation.

15-1001. Compliance with financial responsibility required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; and provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent. (Ord. #2006-19, Oct. 2006)

15-1002. Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this ordinance. Any violation of this ordinance is punishable by a civil penalty of up to fifty dollars ($50.00). The civil penalty prescribed by this chapter shall be in addition to any other penalty

prescribed by the laws of this state or by the city's municipal code of ordinances. (Ord. #2006-19, Oct. 2006)

15-1003. <u>Evidence of compliance after violation</u>. On or before the court date, the person charged with a violation of this chapter may submit evidence of compliance with this chapter in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (Ord. #2006-19, Oct. 2006)

CHAPTER 11

DRIVER EDUCATION COURSE

SECTION

15-1101. Driver education course.
15-1102. Fee.
15-1103. Records.
15-1104. Report to department of safety.
15-1105. Non-applicability.

15-1101. Driver education course. Any person violating any of the provisions of the La Vergne Municipal Code with respect to the operation, use, or control of a motor vehicle may be required, at the discretion of the municipal judge, to attend a driver education course approved by the Tennessee Department of Safety in addition to or in lieu of any portion of other penalty imposed. Such course shall be conducted by the City of La Vergne Police Department. (as added by Ord. #2019-06, April 2019 ***Ch3_9-3-19***)

15-1102. Fee. The fee described in § 3-602 may be assessed for the driver education or driver improvement course; provided, that no one shall be refused admittance for inability to pay. (as added by Ord. #2019-06, April 2019 ***Ch3_9-3-19***)

15-1103. Records. By operating a driver education or improvement course pursuant to the provisions of this chapter, the entity operating or conducting the course consents to the inspection of all records concerning the course by the state department of safety; provided, that inspection made pursuant to this provision shall not preclude inspection of any records pursuant to any other provision of law. (as added by Ord. #2019-06, April 2019 ***Ch3_9-3-19***)

15-1104. Report to department of safety. Upon certification to the municipal court clerk that a court ordered driver education course has been completed, the municipal court clerk shall report the completion to the Tennessee Department of Safety. (as added by Ord. #2019-06, April 2019 ***Ch3_9-3-19***)

15-1105. Non-applicability. This chapter shall not apply to any person who holds a Class A, B, or C license and is charged with any violation, except a parking violation, in any type of motor vehicle. Further, this chapter shall not apply to any person who holds any class of driver's license and who is charged with any violation, except a parking violation, while operating a commercial motor vehicle. (as added by Ord. #2019-06, April 2019 ***Ch3_9-3-19***)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. DRIVEWAYS.
4. NUMBERING OF PROPERTIES AND PRINCIPAL BUILDINGS.

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 regulated.
16-111. Operation of trains at crossings--warnings required.
16-112. Animals and vehicles on sidewalks.
16-113. Fires in streets, etc.
16-114. Street acceptance policy.
16-115. Commercial trucks regulated when using city streets.
16-116. Fine for closing streets for more than twenty-four hours.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (Ord. #2009-2, March 2009)

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

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

(14) feet or over any sidewalk at a height of less than eight (8) feet. (1994 Code, § 16-102)

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 any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (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 law. (1994 Code, § 16-106)

16-107. Littering streets, alleys, or sidewalks prohibited.[2] 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

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[1]Municipal code reference
Building code: title 12, chapter 1.

[2]Municipal code reference
Litter control: § 17-108.

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)

16-110. Parades regulated. It shall be unlawful for any person, 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 the police chief approves the application stating that such activity will not unreasonably interfere with traffic. 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 clean up the resulting litter immediately. (1994 Code, § 16-110, modified)

16-111. Operation of trains at crossings--warnings required. There shall be erected at all grade crossings on the line of any railroad in the City of La Vergne over which trains are operated, electric signals, crossing gates, flagmen, or some other warning approved by the board of mayor and aldermen for the City of La Vergne, Tennessee.

Such warning means or devices shall be erected and maintained by the railroad without any expense to the City of La Vergne, and when warning devices are used, they shall be erected and maintained under the supervision of the mayor. (1994 Code, § 16-111)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as 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)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1994 Code, § 16-113)

16-114. Street acceptance policy. The City of La Vergne shall not, nor shall any public authority accept, lay out, open, improve, grade, or pave any street unless such street shall have been accepted or opened as or shall have otherwise received the legal status of a public street.

No street within the City of La Vergne shall be accepted or opened as or shall have otherwise received the legal status of a public street without prior inspection and approval by the city road and road drainage engineer.

The owner of any subdivision or his agent shall pay to the City of La Vergne an inspection fee of twelve cents ($.12) per linear foot on all streets in any subdivision prior to the laying out, opening, improving, grading, or paving of said streets within the City of La Vergne. (1994 Code, § 16-114)

16-115. Commercial trucks regulated when using city streets.

(1) No person shall drive any commercial truck or trailer in excess of fifteen thousand (15,000) pounds gross vehicle weight upon any street owned and maintained by the City of La Vergne. The provisions of this section shall not be deemed to prohibit the parking of public school buses on private property or the lawful parking of a commercial truck or trailer in excess of fifteen thousand (15,000) pounds gross vehicle weight upon any street for the actual loading or unloading of goods, wares, or merchandise, provided, however, that "loading" and "unloading" as used in this section shall be limited to the actual time consumed in such operation. Trucks making deliveries or pickups on streets not designated as a state or federal highway may do so provided that a state or federal highway is used until reaching the intersection nearest the destination point and then expeditiously returned to by the most direct route. Also, this section shall not prohibit the temporary parking of said vehicles when reasonably necessitated by a break down or other emergency, provided the chief of police is promptly notified of the circumstances and provided said parking pursuant to this emergency provision shall not be permitted in excess of twelve (12) hours.

(2) It shall be presumed that the person or persons owning and/or operating any truck or trailer which is found parked, standing, or unoccupied within the city limits on or adjacent to a city street that is not a part of the state or federal highway system, whether said vehicle be located upon private or public property, was the person or persons responsible for incurring the violation of this section, unless said person rebuts said presumption and proves said vehicle was used without operating it over a city street. (1994 Code, § 16-115)

16-116. Fine for closing streets for more than twenty-four hours. Any person or corporation that closes, blocks or in any way prevents the flow of traffic on any city street for a period of twenty-four (24) hours shall be subject to a fine of fifty dollars ($50.00) per day and a separate fifty dollar ($50.00) fine for each day that the flow of traffic on such city street is prevented. Also if closed without a permit, that shall be a fifty dollar ($50.00) penalty also. (1994 Code, § 16-116)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required.
16-202. Applications.
16-203. Fee.
16-204. Deposit or bond.
16-205. Manner of excavating--barricades and lights--temporary sidewalks.
16-206. Restoration of streets, etc.
16-207. Insurance.
16-208. Time limits.
16-209. Supervision.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, other governmental unit or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the codes enforcement office is open for business, and said permit shall be retroactive to the date when the work was begun. The La Vergne Codes Enforcement Division shall maintain a permitting system approved by the director of public works and shall maintain a tickler file that assures work is completed prior to expiration of the surety bond or the cash deposit being refunded. (1994 Code, § 16-201)

16-202. Applications. Applications for such permits shall be made to the codes enforcement officer 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,

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[1]State law reference
This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

association or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, the time of beginning of the work and the time of completion of the work, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done, that the city may correct unacceptable installation or incomplete installation, and that the city may use the cash or security bond for unsatisfactory work or incomplete performance. Such application shall be rejected or approved by the public works director within twenty-four (24) hours of its filing and a permit issued if approved. (1994 Code, § 16-202)

16-203. Fee. The fee for such permit shall be twenty-five dollars ($25.00). (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 codes enforcement officer a cash deposit, or in lieu thereof, a surety bond in such form and amount as the public works director shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. The deposit shall be in the sum of $500.00 for a minor city street or $1,000.00 for a collector street or a major thoroughfare. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the public works director may increase the amount of the deposit to an amount considered by him to be adequate to cover the estimated costs. From this deposit shall be deducted any expense to the city of correcting or completing any installation to city specifications. The balance, if any, shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored. (1994 Code, § 16-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. The city specifications shown on Drawing No. PR-B-1 of the Tennessee Public Works Construction Standards, Pavement replacement backfill, adopted by the city shall be followed (see "exhibit A" - attached).[1] Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. All traffic control and obstructions must be coordinated with the La Vergne Police Department and with the public works department. It is the responsibility of the permittee to control traffic. If any walkway or street is blocked by any such work, a temporary walkway or street shall be

[1]Exhibit A attached to Ord. #94-18 is of record in the city recorder's office.

constructed or provided with detour signs which shall be safe for travel and convenient for users. (1994 Code, § 16-205)

16-206. **Restoration of streets, etc**. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the city shall restore said street, alley, or public place to its original condition. In case of delay past the completion date set forth in the application, the codes enforcement officer shall give notice to the applicant and the person for whom the work was done if different that unless the excavation or tunnel is refilled properly within a specified period of time, the city will do the work and charge the expense of doing the same to the applicant or the person for whom the work was done. 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 applicant or the person for whom the work was done. (1994 Code, § 16-206)

16-207. **Insurance**. In addition to making the cash deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that the applicant is covered by workman's compensation insurance as well as against claims for property damage or personal injury which may arise from or out of the performance of the work, whether such performance be by the applicant, 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 codes enforcement officer in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than $300,000.00 for proper damages. (1994 Code, § 16-207)

16-208. **Time limits**. Each application for a permit shall state the length of time that will elapse from the commencement of the work until the restoration of the surface, but in no case shall the time for restoration exceed sixty (60) days. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the codes enforcement officer. (1994 Code, § 16-208)

16-209. **Supervision**. No pipe or utility, or drainage tile may be covered, no repair of any utility that is part of a system operated by the city shall be made, and no refilling shall be done unless a La Vergne Public Works Inspector is on site at the time of repair or refilling the excavation. The Public Works Director may approve hand compaction for cuts made with small trench machines, however, a city inspector must be present when the excavation is

filled. The city specifications ("exhibit A" - attached)[1] and other city standards and specifications that may apply, must be adhered to. (1994 Code, § 16-209)

[1]Exhibit A attached to Ord. #94-18 is of record in the city recorder's office.

CHAPTER 3

DRIVEWAYS

SECTION

16-301. "Driveway" defined.
16-302. Application.
16-303. Review of application; approval; culverts.
16-304. Denial of application; appeal.
16-305. Costs of construction.
16-306. Requirements in addition to planning commission regulations.
16-307. Removal of offending conditions.

16-301. "Driveway" defined. The term "driveway" as used in this chapter shall mean any portion of a normal sidewalk area, including grass plot, curb, gutter, and sidewalks of the streets, roadways, and alleys of the City of La Vergne, Tennessee, intended for use by vehicles as a means of ingress and egress between public right-of-way and abutting property. (1994 Code, § 16-301)

16-302. Application. It shall be the duty of all persons intending or proposing to construct a driveway for vehicular access to and from the public streets and alleys to make an application for authorization of construction, re-construction, or major repair of driveways on forms prescribed by the building inspector of the City of La Vergne. Applications shall be signed by the property owner, lessee, developer, or contractor. The fee for such permit shall be fifty dollars ($50.00). (1994 Code, § 16-302, modified)

16-303. Review of application; approval; culverts. It shall be the duty of the building inspector to give due consideration to the convenience, safety, regular movement of pedestrian and vehicular traffic, and drainage, when reviewing a driveway application. It shall be the further duty of the building inspector to approve or disapprove said driveway application and to require any culverts under said driveway to be a minimum capacity of eighteen inches (18") in diameter. (1994 Code, § 16-303)

16-304. Denial of application; appeal. In the event the building inspector denies any application for driveway construction, the applicant shall have the right of appeal to the La Vergne Board of Zoning Appeals. Such appeal shall be made within ten (10) days after denial by the building inspector. (1994 Code, § 16-304, modified)

16-305. Costs of construction. The cost of driveway construction or major driveway repair, or the installation of culverts, shall he borne by the

owner, lessee or other lawful holder of the property to be served. (1994 Code, § 16-305)

16-306. <u>Requirements in addition to planning commission regulations</u>. All requirements under this chapter are in addition to the requirements and regulations imposed by the La Vergne Planning Commission. (1994 Code, § 16-306)

16-307. <u>Removal of offending conditions</u>. Any person violating any of the provisions contained in this chapter shall be notified that the offending driveway construction, reconstruction, repairs, or culvert shall be removed. Notification shall be made by the building inspector in writing to the property owner, lessee, contractor, or lawful holder of said property, to the effect that the offending work must be removed within ten (10) days from date of notification, and the driveway replaced to conform to the provisions contained in this chapter. In the event of failure to comply with notification, the City of La Vergne will make the necessary driveway corrections and assess the cost against the property abutting the driveway. (1994 Code, § 16-307)

CHAPTER 4

NUMBERING OF PROPERTIES AND PRINCIPAL BUILDINGS

SECTION

16-401. Uniform numbering system.
16-402. Assignment of numbers.
16-403. Administration.

16-401. Uniform numbering system. A uniform system of numbering properties and principal buildings, as shown on the map identified by the title _____ which is filed in the office of the city recorder, is hereby adopted for use in the City of La Vergne. This map and all explanatory matter thereon, is hereby adopted and made a part of this section. (1994 Code, § 16-401)

16-402. Assignment of numbers. (1) All properties or parcels of land within the corporate limits of the City of La Vergne shall hereafter be identified by reference to the uniform numbering system adopted herein, provided: all existing numbers of property and buildings not now in conformity with provisions of this section shall be changed to conform to the system herein adopted within six months from the date of passage.

(2) A separate number shall be assigned for each fifty (50) feet of frontage.

(3) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located. (1994 Code, § 16-402, modified)

16-403. Administration. (1) The city engineering department shall be responsible for maintaining the numbering system.

(2) The city engineering department shall keep a record of all numbers assigned under this section. (1994 Code, § 16-403, modified)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

17-101. Refuse defined.
17-102. Premises to be kept clean.
17-103. Storage.
17-104. Disturbing containers.
17-105. Collection.
17-106. Collection vehicles.
17-107. Disposal.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1994 Code, § 17-101)

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1994 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the City of La Vergne 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. (1994 Code, § 17-103)

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[1]Municipal code reference
Property maintenance regulations: title 13.
See Ord. #2002-01 (Feb. 2002) of record in the office of the recorder for an ordinance adopting by reference the regulations of the City of La Vergne Public Works Specifications Manual dated November 2001.

17-104. 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. (1994 Code, § 17-104)

17-105. Collection. It shall be the responsibility of each owner or occupant to provide for the proper collection of all refuse which accumulates upon his premises. (1994 Code, § 17-105)

17-106. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1994 Code, § 17-106)

17-107. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1994 Code, § 17-107)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

1. WATER.
2. WASTEWATER.
3. SEWER USE ORDINANCE.
4. WATER AND SEWER RATES AND FEES.

CHAPTER 1

WATER

SECTION

18-101. Definitions.
18-102. Application for water service.
18-103. Service connection and meter setting charges.
18-104. Customers not to supply water to others.
18-105. Service connect fees.
18-106. Rates and fees.
18-107. Meters.
18-108. Meter reading and billing.
18-109. Relocation of meters.
18-110. Meter testing.
18-111. Meter turn on/off.
18-112. Damage to water meters.
18-113. Responsibility for property of customer.
18-114. Shut-off valve.
18-115. Discontinuance of service.
18-116. Private fire lines.
18-117. Swimming pools.
18-118. No guarantee of pressure and/or water supply.
18-119. Fire hydrants inside corporate limit.
18-120. Fire hydrants outside corporate limit.

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[1]Municipal code references
Building, utility and housing codes: title 12.
Refuse disposal: title 17.
See Ord. #2002-01 (Feb. 2002) of record in the office of the recorder for an ordinance adopting by reference the regulations of the City of La Vergne Public Works Specifications Manual dated November 2001.

18-121. Fire hydrants-private ownership prohibited.
18-122. Cross-connections.
18-123. Supply of steam boilers.
18-124. Special service.
18-125. Extension of water mains.
18-126. Responsibility for damages to customer's water line.
18-127. Water and sewer main extensions.
18-128. Extensions within existing developed areas of the city.
18-129. Extensions within new subdivisions in the city.
18-130. Extensions outside city limit.
18-131. Exceptions.
18-132. Regulations for the installation of water service to apartments, multipurpose dwellings, and mobile home parks.

18-101. Definitions. (1) "City." The City of La Vergne, Tennessee.

(2) "Person or tenant." Firms and corporations, as well as individuals.

(3) "Customer." Any person who receives water and/or wastewater services from the city either under an express or implied contract requiring such person to pay the city for such service.

(4) "Developer." Any person, firm or corporation, both public and private, engaged in the development of land, such as subdivisions and other land improvements.

(5) "Discount date." The date payment for utility bills shall be paid before adding the penalty.

(6) "Dwelling." Any single structure occupied by one (1) or more persons for residential purposes.

(7) "Premises." Any structure or group of structures, including land, operated as a single business or enterprise.

(8) "Unit." An individual part of a multiple unit development.

(9) "Multiple unit development." Any multi-unit complex, such as apartments, small business, etc.

(10) "Cross-connection" means any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains, or may contain, contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross-connections;

(11) "Cross-connection control program." A program developed by the City of La Vergne, Department of Public Works, approved by the Tennessee Department of Environment and Conservation that provides for a program of

inspection and enforcement for the elimination of cross and back flow connection within the City of La Vergne water distribution system.

(12) "Accepted street." A street or avenue located within the City of La Vergne which has been accepted by the city for maintenance, or a road or highway located outside the City of La Vergne which has been accepted by Rutherford County.

(13) "Easement." A legally dedicated right-of-way for the city to install water and/or sewer lines within specified boundaries.

(14) "Existing developed area." A developed area within the corporate limit having streets, water and/or sewer lines and appurtenances which have been accepted for operation and maintenance by the city.

(15) "New subdivision." A development of a tract or parcel of land having two or more lots and having dedicated streets which have not been accepted by the appropriate governing agency.

Note: Whenever the context shall admit or require, words used herein in the singular shall include the plural; words used in the plural shall include the singular; words used in the masculine shall include the feminine; and words used in the feminine shall include the masculine. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-102. <u>Application for water service</u>. All applicants for water service shall complete an application for service at the water/sewer billing office located at the city municipal building. The application shall state fully the use to which the water is to be applied and that the customer will abide by the rules, rates and charges of the city then in force, or which thereafter is adopted. The application shall be signed by the owner or tenant of the premises and shall state the location of the premises to be served, including street, street number, and lot number. In the event the owner of the premises desires to be billed rather than the tenant for metered water used, the owner shall make application in accordance with the provisions of these rules, rates and charges.

The director of public works shall complete all requests for availability of water and/or sewer. Developers and commercial and industrial users must submit a request in writing outlining the proposed use of a building or facility and projected water demand to the city for review. A fee of one hundred dollars ($100.00) shall be paid to the city for the letter of availability for water and/or sewer service. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-103. <u>Service connection and meter setting charges</u>. An installation fee including the actual cost of service assembly; i.e., making the tap and furnishing and installing service line, meter, meter box, yoke, and other fittings, highway crossings, pavement repair, or other restorative work, plus an inspection fee as outlined herein shall be charged for each service connection.

The city may at its option contract for this installation and the customer will be billed for all costs.

The customer may separately contract with a plumber, licensed in Rutherford County or utility contractor licensed by state licensing board for the installation which shall include all materials necessary for the installation. Such installation shall be completed to city specifications and standards and all work must be inspected and approved by the city prior to backfilling. It will be necessary for the contractor to obtain a separate street cut permit prior to cutting any street or right-of-way from the city codes enforcer.

The water meter setting shall be placed at a suitable location selected by the city. However, the city will strive to place the meter setting where the customer desires. When making application, the tenant and/or property owner shall pay the charges required in the water and sewer rates and charges schedule included in this document as title 18, chapter 4, as may be amended from time to time. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-104. Customers not to supply water to others. No water customer shall supply water to other residences, business, or others. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-105. Service connect fees. Residential, commercial and industrial customers shall pay a service connect fee. No deposit is required to guarantee payment of monthly bills. (See water and sewer rates and fees in title 18, chapter 4 of this document.) (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-106. Rates and fees. (1) Rates. The water department will have minimum charge for water and sewer service per billing month, or any part thereof, per customer's meter or individual units present, regardless of the amount of water metered. Sewer usage will be based on one hundred percent (100%) of water meter readings. The approved rates for water and sewer service for all customers shall be posted in the office of the water department. No service shall be furnished or rendered free of charge to any person, firm, or corporation.

(2) Fees. In addition to the monthly service charge based on quantity of water and/or sewer service used, the following fees will be charged by the city for water and/or sewer service:

(a) Tapping fee. (privilege fee that is deposited to the utility system reserve fund). The minimum tapping privilege fee and the minimum monthly bill for a single family structure of each unit of a duplex, triplex, or any other multi-unit residential structure; a single unit non-residential structure such as a shopping center or other single-unit commercial structure shall be determined in accordance with rate

schedules as the city may from time to time adopt by appropriate ordinance. The tapping privilege fee and minimum monthly bill for a multi-unit structure shall be calculated as if each unit were individually metered.

(b) Fee for private fire hydrants and sprinklers;

(c) Utility construction inspection fee. All utility construction must be inspected by an authorized representative of the city. The cost of inspection services will be paid by the developer within fifteen (15) days of being billed by the city. Customers are required to contract with a licensed plumber/contractor to install a tap to the city's water and/or sewer systems.

(d) Extraneous flow fee. Upon determination that a sewer customer is permitting extraneous flow (storm water runoff, storm drainage, groundwater, etc.) to enter the city's sewerage system, the city will make a measurement of such flow during wet weather and thereafter the charge for sewer services will be based upon the flow measured at that time on a demand treatment capacity basis or upon any subsequent measurement indicating a greater demand. A monthly sewer charge determined upon this basis will be in addition to the monthly sewer charge set forth above and can be reduced upon and to the extent of satisfactory demonstration to the city that the source of the extraneous flow into the customer's sewer service lines have been eliminated.

(e) Plans review fee. Review of water and/or sewer plans. Upon submission of the plans for review, the developer must pay a fee as determined in the fees and rate schedule adopted by the city. This fee will be deducted from the developer's tapping fees when a contract is signed by the developer and the city.

(3) The city must approve the size and location of each meter to be installed and the size and location of each private service line.

(4) All connections and extensions to the city's water and sewer systems must comply with the specifications of the city. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-107. <u>Meters</u>. Each customer will be supplied water through a separate meter. Where a building under one (1) ownership has a number of apartments (or offices) under one roof and the owner desires that the city deal directly with the tenants, the owner will make application for each unit to be served individually. Upon receiving application to serve multiple units, each tenant shall be subject to all applicable provisions of these rules, regulations, rates and charges.

For customers operating multiple units metered by a single meter, there shall be, in addition to the bill computed in accordance to the rate schedule, a charge per unit. (See water and sewer rates and fees in title 18, chapter 4 of this

document.) This additional charge does not apply to recreational overnight rental facilities.

All meters shall be furnished by the city and paid for by the customer. The city shall set the meter and the meter shall be dedicated to the city and the city shall maintain the meter. Meters and meter settings must be accessible at all time and not covered with rubbish or material of any kind. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-108. Meter reading and billing. Meters shall be read monthly. All water furnished by the city shall be measured in U.S. gallons and will be furnished at the rates indicated in the schedule of water and sewer rates and charges, as may be amended from time to time, as shown in title 18, chapter 4.

City meter readers or any other authorized personnel of the city shall have access at all reasonable hours to premises supplied water for the purpose of reading, inspecting, repairing, or removing meters and/or meter settings.

If a meter is found not to be in good working order, the bill will be determined by computing the average of the four (4) previous monthly bills. However, due consideration will be given to any abnormal monthly usages which may have occurred during such four (4) months period. If the customers meter stops prior to four (4) months usage, the bill will be estimated by the city.

All bills due the city shall be paid within ten (10) days from the date of the bill at the water/sewer office in the La Vergne Municipal Building. A penalty will be added if the bill is not paid before the final date of payment. The penalty will be assessed at ten percent (10%) of the unpaid balance of the bill, including other charges and sales tax.

If the last day to pay the net bill falls on a Saturday, Sunday, or a recognized holiday granted by the city, the last day to pay the net bill will be extended to the next business day. Remittances received by mail will be considered paid by the last day to avoid the late penalty charge, provided the envelope containing the payment bears a postmark of the U.S. Postal Service dated on or before the last day shown on the bill to avoid late charge penalty.

The city will impose a service charge to the customer for each check returned for having insufficient funds. (See water and sewer rates and fees in title 18, chapter 5 of this document). (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-109. Relocation of meters. Water meters shall not be relocated without the approval of the director of public works. All meter locations the city considers to be unsatisfactory may be moved to a more suitable location at the expense of the city. The city may discontinue furnishing water to any customer who refuses permission to the city for removal of a meter in accordance with this regulation.

Should a customer consider their meter location unsatisfactory, a request for relocation may be made to the director of public works. If feasible, the city

will relocate the meter as requested. The customer will be billed for the actual cost of the relocation. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-110. **Meter testing**. Should a customer question the accuracy of his meter registration, he may request that his meter be tested. The customer may make this request either in writing or orally to the director of public works or the water/sewer billing supervisor. The customer has the option to be present while the meter is being tested. The charge for testing a meter is indicated in the water and sewer rates and fees as shown in title 18, chapter 4 of this document.

If the meter tested is found to be defective an allowance shall be made by the city, and the service charge will be returned by the city. Meters may be removed for testing and another meter substituted at the option of the water division. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-111. **Meter turn on/off**. Water shall not be turned on or shut off at the meter by anyone except an authorized employee of the city. If the customer requests that the water be turned on or shut off at a time other than during regular scheduled working hours of the city, a service fee will be charged in accordance with the water and sewer rates and fees as shown in title 18, chapter 4 of this document.

Whenever water service has been disconnected for nonpayment of any bill rendered, or because of violation of any other of these rules, rates, and charges or any other city policy, a charge shall be made to cover the cost of this service. (See water and sewer rates and fees in title 18, chapter 4 of this document).

Whenever any delinquent customer, whose supply of water has been turned off, pays the sum due into the department, the department, without delay, shall have the supply turned on; provided, that the customer shall have complied with all rules and regulations of the department as described herein.

Any unpaid bills must be settled and the service connect fee renewed before service is restored. Notice by customers to discontinue water service must be given in writing or in person at the water billing office. The customer shall be responsible for all water consumed until such notice has been given and a reasonable time allowed to read the meter.

When the water supplied to any person, whether metered or unmetered, has been cut off for nonpayment of the water bill or of the combined water and sewerage bill, and is afterwards found turned on, without the knowledge or consent of the department, the supply pipe to such premises shall be locked at the meter, and the water shall not again be turned on until the entire amount due for water or sewerage, or both, by the party liable, has been paid, together with the costs of locking and unlocking the meter, which charge for costs shall be specified in title 18, chapter 4.

If the lock has been removed from the meter, the city shall remove the meter and charge the customer a fee for the removal of the meter. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007, as amended by Ord. #2008-18, Dec. 2008)

18-112. Damage to water meters. If a city-owned water meter, meter setting or meter box is damaged due to an act of negligence, abuse or carelessness by the customer or his agent, employee, or any member of his family, such customer shall be responsible for the repairs and/or replacement of same. The customer will be billed for the actual cost of repair or replacement, and such bills shall be paid within thirty (30) days from the date of mailing thereof. Otherwise, the amount of the unpaid bill will be added to the customer's utility bill. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007, and Ord. #2011-07, April 2011)

18-113. Responsibility for property of customer. The city shall not assume responsibility for damages incurred by water delivered through the meter, such as broken water lines within the customer's plumbing, spigots, valves, etc., left open at the time meter was installed.

In high pressure areas in the city distribution system, it shall be the customers responsibility to install a pressure regulating valve on his service line and pressure and temperature pop-off valves on his water heater. Any damages sustained for water heater blow-off shall be the customer's liability. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-114. Shut-off valve. A water shut-off valve must be installed within the plumbing system of each dwelling for use in case of an emergency according to the city's specifications. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-115. Discontinuance of service. The city's personnel may shut off the water meter serving the customer for the following reasons:

(1) Nonpayment of bills
(2) Unsafe apparatus
(3) Fraud and abuse
(4) Noncompliance with these rules, regulations, rates, and charges or any other policy of the city.

The city will notify customers with either a public notice advertisement, department letter, by telephone, or hand delivered note to be left at the residence for planned water outages that are non emergency outages. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-116. Private fire lines. Private fire lines or sprinkler lines will be installed by and at the expense of the customer, such construction to be made

in accordance with the city specifications, standards, and codes. Such lines shall be owned and maintained by the customer and shall be used solely for the supply of water for fire protection.

Authorized city personnel shall have access to the customer's premises at all reasonable hours for the purpose of inspecting fire lines and/or sprinkler lines.

The fire line and/or sprinkler line charges shall be as reflected in the water and sewer rates and fees as shown in title 18, chapter 4 of this document. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-117. Swimming pools. Customers shall pay the appropriate water rates for filling swimming pools. One (1) adjustment per year shall be made on the sewer bill for water used to fill a swimming pool that is not drained into the public sewer. Fire hydrants are not permitted to be used in filling swimming pools. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-118. No guarantee of pressure and/or water supply. The city does not guarantee any fixed pressure or a continuous supply of water. In the event of breaks in mains, service lines, pumping machinery, reservoirs, or other equipment of the city, the water may be shut off without notice, and the city shall not be liable for damages which may arise therefrom. When a planned water shut-off occurs, city personnel shall attempt to notify the affected customers. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-119. Fire hydrants inside corporate limit. No person or customer shall open a fire hydrant inside the corporate limits except to provide fire suppression services or as approved by the director of public works. Fire hydrants will be installed within the system at such locations as approved by the director of public works and as budgeted by the city. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-120. Fire hydrants outside corporate limit. No person or customer shall open a fire hydrant outside the corporate limits of the city except to provide fire suppression services or as approved by the director of public works. The director of public works shall be notified of all such openings and shall be provided with an estimate of water used. The size and type fire hydrant shall be determined by the city. The city will bill the fire company for the estimated amount of water used. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-121. Fire hydrants - private ownership. Private ownership of fire hydrants connected to the city water service shall be metered. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-122. **Cross-connections**. 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 the same have been approved by the City of La Vergne, Director of Public Works, and the Tennessee Department of Environment and Conservation, and the operations of such cross-connection, auxiliary intake, by-pass or interconnection is at all times under direct supervision of the director of public works or his representative.

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 director of public works, a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake by-pass or interconnection will be permitted upon the premises, in compliance with the then current Tennessee Department of Environment and Conservation approved City of La Vergne Cross-Connection Control Programs.

It shall be the duty of the director of public works, or his representative, to develop a cross-connection control program, receive appropriate tennessee department of environment and conservation approval, and thereafter manage, enforce and update or modify as required by the governing state agency, the approved cross-connection control program within the City of La Vergne.

It shall be the duty of the director of public works 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 director of public works or his representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information or test or operational data pertaining to any existing or future cross-connection prevention devices. Refusal of requested operational data or access to any device or potential cross-connection, when requested, shall be deemed evidence of the presence of cross-connections and subject to immediate termination of water service. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-123. **Supply of steam boilers**. In no event shall a steam boiler be supplied directly from a water main of the city. There shall be a tank or other receptacle located between the boiler and the water main and such supply shall be taken directly from the water tank or receptacle. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-124. Special service. The city may issue permits for the use of water for building or construction purposes, or other temporary purposes, provided the applicant pays for tapping and installation and conforms to all other requirements of the city. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-125. Extension of water mains. Water mains may be extended with permission from the city. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-126. Responsibility for damages incurred to customer's water line. The City of La Vergne shall not assume liability for damages incurred by a water customer when said damages have resulted from the following actions:

(1) Damages caused by defective operation condition of customer's plumbing system.

(2) Damages caused by a defective condition in the water system, unless the city receives actual or constructive notice of a defective condition.

The customer shall be responsible for leaks on his side of the meter. Whenever the city determines that there is an out of consumption usage, the city shall immediately notify the customer, read the meter at the time the notice is given, and it shall be the customer's responsibility to repair the leak. The director of public works may make one (1) adjustment per year; such adjustment not to exceed the period after the notice of out of consumption is given. No adjustment will be made for the period after the notice is given and the meter is read. The director of public works must approve all adjustments for leaks. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-127. Water and sewer main extensions. In addition to the following regulations, each proposed water and/or sanitary sewer extension shall be evaluated for acceptance or rejection, especially sewer main extensions involving a sewage lift station(s). The merits of which an extension is evaluated shall include but not be limited to the following:

(1) Cost of operations and maintenance of equipment.

(2) Projected revenues from utility sales generated as a direct result of the extension.

(3) Concerns with respect to the environment and/or ecology.

(4) Overall budget considerations.

In general, and insofar as possible, each extension should be economically viable and self-sustaining on its own with minimal impact on the utility rate payers as a whole. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-128. Extensions within existing developed areas of the city.

(1) Sewer mains. The city will extend mains within the existing developed areas (existing plated lots of record) along accepted streets and easements within the corporate limit of the City of La Vergne where economically feasible or where there exists a threat to the public health caused by gross pollution resulting from inadequately operating or overflowing underground sewage disposal fields, and where the city can feasibly provide sufficient funds for such extensions.

When determined necessary, sewer main extensions shall be made for a distance no greater than one hundred feet (100'), at the city's expense, provided, however, that the city will not extend any mains where ground elevations are such that said mains cannot be installed feasibly to drain into the existing sewerage system. All extensions beyond one hundred feet (100') shall be made at the expense of the applicant.

The size of the main to be installed shall be exclusively within the discretion of the city. The city may connect a main to or extend a main from any main previously installed in accordance to the above terms without obligation to the applicant who may have home the expense on such previously installed main.

New subdivisions will not be covered under the guidelines of the one hundred foot (100') extension rule.

In no event will the city make any extension at its expense should the operating budget of the sewer departments not have sufficient funds for such extension.

(2) Water mains. The city will extend water mains along accepted streets or easements in existing developed areas within the corporate limit of the city for applicants having property on such streets, rights-of-way, or easements provided that sufficient funds are available. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-129. Extensions within new subdivisions in the city. (1) Sewer mains. All sewer main extensions within new subdivisions being developed within the corporate limit of the City of La Vergne shall be installed by and at the expense of the developer.

If sewer service is not available to the nearest new proposed subdivision the sewer shall be extended at the expense of the developer.

The city may connect a main to, or extend a main from any main previously installed in accordance with the above terms without obligation to the developer of the newly developed subdivision.

(2) Water mains. All water mains required to be extended along accepted streets and/or rights-of-way adjacent to the property line of the land parcels on which there are new subdivisions, and within the new subdivisions being developed, shall be installed by and at the expense of the developer. The

developer is required to install all fire hydrants within new subdivisions in accordance with city regulations.

The developer shall pay all water and sewer tap fees prior to any construction. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-130. Extensions outside the city limits. (1) Sewer mains. All proposed sewer main extensions outside the City of La Vergne must be granted approval to proceed from the city prior to preparation of plans. The city reserves the right to reject any extensions.

All sewer main extensions outside the City of La Vergne shall be installed by and at the expense of the developer from the end of the existing sewer main whether it is inside or outside of the city limit.

The city may connect a main to, or extend a main from, any main previously installed in accordance with the above terms without obligation to the developer or consumer who previously installed such main.

(2) Water mains. All proposed water main extensions outside the City of La Vergne must be granted approval to proceed from the city prior to preparation of plans. The city reserves the right to reject any extension.

All water main extensions outside the City of La Vergne shall be installed by and at the expense of the developer from the end of the existing water main whether it is inside or outside the city limit.

The city may connect a main to, or extend a main from, any main previously installed without obligation to the developer or consumer who installed such main. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-131. Exceptions. The regulations governing the extension of water and sewer mains shall not limit the city from participating in the cost of water and sewer main extensions when the application warrants consideration due to high volume consumption or favorable return on investment. All sewer and water extensions must be approved by the board. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

18-132. Regulations for the installation of water service to apartments, multipurpose dwellings, and mobile home parks.

(1) Meter, piping, charges. (a) A master water meter shall be provided by the owner meeting city standards and specifications. Such meter shall be dedicated to the city and installed at a location approved by the city.

(b) Such meters shall provide for sufficient fire flows through the meter.

(c) The owner shall be responsible for all interior piping, valves, hydrants, and appurtenances on the owner's side of the meter.

(d) The owner shall be responsible for all leaks on the owners side of the meter and the city shall not make any adjustments in charges.

(2) Existing. (a) No additional connection fees shall be charged for those units that have already paid for internal tap fees.

(b) No tap fees shall be refunded.

(c) On existing apartments, multipurpose dwellings, and mobile home parks, the director of public works may install a city owned meter.

(3) Fees. (a) The public works director is authorized to bill on a regular basis for water use measured by the single master meter. It shall be the owner's responsibility to bill individual tenants.

(b) In the event that water or sewer usage is not paid by the owner on or before the due date the public works director may discontinue the service and/or prosecute the owner or owners for nonpayment under the general penalty clause of the city or under other local or state statutes, it being understood that individual tenants not be without water or sewer service because the owner would not pay for the service. (Ord. #2007-17, June 2007, as replaced by Ord. #2007-27, Sept. 2007)

CHAPTER 2

WASTEWATER

SECTION

18-201. Application for sewer service.
18-202. Connection with sewer required.
18-203. Sewer service charges.
18-204. Service connections.
18-205. Customer service lines not to serve others.
18-206. Compliance with the International Plumbing Code.
18-207. Sewer service from La Vergne water/sewer and water from another utility or well.
18-208. Use of existing systems.
18-209. Sewer line stoppages.
18-210. Compliance with rules and regulations.
18-211. Sewage received from septic tank haulers.
18-212. Extension of sewer main.
18-213. Damage claims.
18-214. Regulations for the installation of sewer service to apartments, multipurpose dwellings, and mobile home parks.

18-201. Application for sewer service. Persons desiring sewer service connections shall make application to the city. The application shall state that the applicant shall abide by the rules, rates and charges of the city then in force, or which thereafter is adopted. The application shall be signed by the owner or tenant of the premises, and shall state the location of the premises to be served, including street, lot number, and relevant elevations of the main floor or basement so the city can determine the availability of service. (1994 Code, § 18-201)

18-202. Connection with sewer required. Mandatory connection to public sewer service is required where the service is available. When a public sewer become available, the building sewer shall be connected to such public sewer within ninety days of date of notice to do so, and the private sewage disposal system shall be cleaned of sludge and filled with suitable material. When a public sewer becomes available, the resident shall pay a minimum charge for sewer service until which time he connects to the public sewer. (1994 Code, § 18-202)

18-203. Sewer service charges. All water customers of the city whose premises are connected with the sanitary sewerage system shall pay sewer service charges in accordance with rates as shown in title 18, chapter 4, of this document.

Sewer users that have water usage that is not returned to the sewerage system may request an exemption from sewer charges for such non-returned water by submitting plumbing plans for the facility showing the proposed location for an approved water meter for the `non-returned water.' The meter shall be readily accessible for reading by city personnel. The cost of the meter installation shall be paid by the customer with the meter becoming the property of the city. (1994 Code, § 18-203)

18-204. Service connections. The customer shall bear all installation and maintenance cost and indemnify the city. All costs and expenses incident to the installation and connection to the sanitary sewer main shall be borne by the owner, including the maintenance of the line. The owner shall indemnify and save harmless the city from all loss or damages of any kind that may directly or indirectly be occasioned by the installation, connection, or maintenance of the sewer including, but not limited to, all damages to persons or property. All utility construction must be inspected by the director of public works or his authorized representative.

The director of public works or his representative must approve the size and location of all service lines and all such work must comply with the specifications of the city.

No work may be covered until inspected and accepted by the sewer department. An inspection fee shall be charged as outlined in title 18, chapter 4.

All pipes and other materials installed on the city's right-of-ways shall become property of the city and the city shall be responsible for maintaining same after they are accepted by the city in writing.

The sewer department may refuse to make connection or to commence or to continue sewer service whenever any installation is not in proper or safe condition.

Service lines connected to the public sewer system shall be located and installed in accordance with the established standards of the city. All service lines shall be approved and inspected by the city director of public works or his representative. The customer shall be responsible for the maintenance and upkeep for the service line from the facilities served by the connection to the city's main line sewer. (1994 Code, § 18-204)

18-205. Customer service lines not to serve others. When sewer service is provided to a customer under a sewer permit, no other customer line shall be connected to the service line. (1994 Code, § 18-205)

18-206. Compliance with the International Plumbing Code. The customer shall be responsible for installing and maintaining his service line in compliance with the International Plumbing Code as adopted and amended from time to time by the city. Should the plumbing official or his authorized inspector

determine the customer's service line needs to be rehabilitated or replaced, it shall be the responsibility of the customer to perform the necessary corrective work. (1994 Code, § 18-206, as amended by Ord. #2006-18, Nov. 2006)

18-207. Sewer service from La Vergne water/sewer and water from another utility or well. Customers connected to the city sewage system but not connected to the city water system, will be charged for sewer service based on metered water used, if obtainable. If the customer has water service from a source other than the city and fails to pay the city for sewerage service, the city has the right to disconnect or plug his sewer service line serving the property.

Single dwelling customers served by an unmetered water supply and connected to the city sewerage system shall pay a monthly flat rate sewerage charge in accordance with the Schedule of Rates and Charges. (1994 Code, § 18-207)

18-208. Use of existing systems. Existing septic tank/field line systems may be used until sewer service is available to serve the customer. The customer is required to use the sewer system provided by the city or will be required to pay a minimum sewer bill each month for the availability of the sewer service. (1994 Code, § 18-208)

18-209. Sewer line stoppages. The system of sanitary sewers is for collecting, carrying, and disposing of house sewage, that is the liquid waste from domestic or household and industrial service. Sewers shall not be used for any other purpose, and no water from rain, surface water, snow or seepage, or any swill, unground garbage, sweepings, ashes, sand, clay, cotton, wool, rags, wearing apparel, oil, grease, rubbish, or other solid matter that may not be promptly dissolved by the sewage shall be placed into the sewer system.

The city's personnel will unstop sewer lines outside the property line of the customer's premises at the expense of the city. It will be the responsibility of the customer to unstop blocked service lines on the customer's premises; however, in the event there is some doubt as to location of the stoppage, the city may unstop the line. Should the city determine that the blockage was located on the customer's premises, the customer shall pay for actual cost of unstopping the line by the city crew. (1994 Code, § 18-209)

18-210. Compliance with rules and regulations. As a condition for service all customers are required to abide by all rules and regulations of the city sewer service. (1994 Code, § 18-210)

18-211. Sewage received from septic tank haulers. The city will not review domestic-type septic tank sewage from local haulers. (1994 Code, § 18-211)

18-212. Extension of sewer main. Sewer mains may be extended with the permission of the city as is herein provided. (1994 Code, § 18-212)

18-213. Damage claims. The city shall not accept responsibility for damages incurred by a customer of the city water/sewer department, when said damages have resulted from the following actions:

(1) Damages caused by defective operation or condition of the customer's plumbing system.

(2) Damages caused by a defective condition in the wastewater system, unless the department receives actual or constructive notice of the defective condition.

That all claims resulting from negligent operation, negligent installation, or negligent repairs, and all claims arising out of sudden and unexpected emergency repair work, will be handled on a case by case basis within the scope of the city's liability insurance carrier's policies, and within the scope of general law, including the Tennessee Municipal Tort Liability Act. (1994 Code, § 18-213)

18-214. Regulations for the installation of sewer service to apartments, multipurpose dwellings, and mobile home parks.

(1) Mains, structures, easements. (a) Sewer mains, laterals, manholes, and appurtenances shall be installed to city standards and specifications.

(b) All sewer mains, laterals, manholes, and appurtenances shall be inspected by the city and shall be dedicated to the city after acceptance by the city.

(c) A twenty (20) foot wide permanent sewer easement shall be provided.

(d) No structure, fence, building, or other obstruction shall be placed upon or across the easement.

(e) No buildings, mobile homes, or structures of any kind shall be placed closer than twenty (20) feet from the edge of the sewer easement.

(2) Private systems. (a) For private sewer systems that have not been inspected and dedicated to the city, sewer flow meters shall measure the sewer discharge into the public sanitary sewer.

(b) Such sewer flow meters shall meet requirements and specifications of the city; shall be provided by the owner, shall be calibrated semiannually; shall be maintained according to city standards and requirements.

(c) The owner shall be required to pay for sewer flows calculated by the meters on a monthly basis. The public works director of the city shall average the flows for billing purposes when flow meters are not functioning properly.

(d) For owners having less than twenty-five (25) units, the owner may petition the director of public works to estimate monthly flows and bill from estimated flows without requiring the installation of flow meters.

(e) The owner of a private system shall be required to enter into an annual agreement for depositing sanitary sewer into the public sanitary sewer system.

(f) The director of public works is authorized and directed to impose usage penalties for sewer flows that exceed the normal dry weather usage based upon estimated flows. (1994 Code, § 18-214)

CHAPTER 3

SEWER USE ORDINANCE

SECTION

18-301. Purpose and policy.
18-302. Definitions.
18-303. Abbreviations.
18-304. Use of public sewers.
18-305. Private wastewater disposal.
18-306. Building sewers and connections.
18-307. Pollutant discharge limits.
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18-311. Dangerous discharge notification requirements.
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18-313. Fees.
18-314. Powers and authority of inspections.
18-315. Enforcement.
18-316. Penalties.
18-317. New construction.
18-318. Permit fees; lab testing expenses.

18-301. Purpose and policy. This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of La Vergne and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the general pretreatment regulations (40 CFR 403).

The objectives to this chapter are:

(1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(4) To provide for equitable distribution of the cost of the municipal wastewater system.

This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users, enforcement of general requirements for all users,

authorizes monitoring and enforcement activities, requires industrial user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

The chapter shall apply to the City of La Vergne and to persons outside the city who are, by contract or agreement with the city, users of the Metro Nashville Publicly Owned Treatment Works (POTW). Except as otherwise provided herein, the city administrator shall administer, implement and enforce the provisions of this chapter.

All users connected to the city's sewer collection system shall comply with and be subject to chapter 15.60 of the Code of the Metropolitan Government of Nashville and Davidson County, Tennessee, along with all other applicable ordinances, rules, and regulations pertaining to pretreatment as adopted by the Metropolitan Government of Nashville and Davidson County, Tennessee.

In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the city, the provision that establishes the higher standard shall prevail. (1994 Code, § 18-401, as replaced by Ord. #2015-07, May 2015)

18-302. 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 USC 1251, et. seq.

(2) "Approval authority" - The Tennessee Department of Environment and Conservation, Division of Water Pollution Control and/or any authorized representative thereof.

(3) "Approved pretreatment program" - The pretreatment program administered by the City of La Vergne approved by the Tennessee Department of Environment and Conservation under 40 CFR.

(4) "Authorized representative of industrial user" - An authorized representative of an industrial user may be:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) If the industrial user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee;

(d) Or the individuals described in (a) through (c), above may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible

for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city administrator.

(5) "Available" - As used in connection with this chapter means a public sewer located at the property line or point at which connection may be made with the city sanitary sewage collection facilities.

(6) "Best Management Practices or BMPs" - Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-304(5) or Tennessee Rule 1200-4-14-.05(1)(a) and (2). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. Also, BMPs include alternative means (i.e. management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.

(7) "Biochemical Oxygen Demand (BOD)" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures, five (5) days at twenty degrees (20°) Centigrade expressed in terms of weight and concentration in milligrams per liter (mg/l).

(8) "Building sewer" - The extension from the building drain to the public sewer or other place of disposal, also called "house connection."

(9) "Building sewer permit" - As set forth in "building sewers and connections" (§ 18-406).

(10) "Categorical standards" - National categorical pretreatment standards or pretreatment standard. Any regulations containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) and 40 CFR 403 which applies to a specific category of industrial users.

(11) "City" - The City of La Vergne, its mayor and board of aldermen, or the city administrator or his/her designee.

(12) "City administrator" - The city administrator as director of wastewater facilities and/or of wastewater treatment works and/or of water pollution control for the City of La Vergne or his/her authorized deputy, agent, representative, or designee.

(13) "Combined sewer" - Any conduit carrying both sanitary sewage and storm water or surface water.

(14) "Compatible pollutant" - Biochemical oxygen demand, suspended solids and fecal coliform bacteria, plus additional pollutants that the POTW is designed to treat and, in fact, does treat to the degree required by the POTW's NPDES permit.

(15) "24-hr. flow proportioned composite sample" - A combination of individual samples of water or wastewater taken at selected intervals, or based on quantity of flow for some specified period, to minimize the effect of variability

of the individual sample. Individual samples may have equal volume or may be proportioned to the flow at the time of the sampling.

(16) "Control authority" - The term shall refer to the "approval authority" defined hereinabove; or the city administrator or his/her designee if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(17) "Cooling water" - The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(18) "County health department" - The Health Department for Rutherford County.

(19) "Dilution stream" - Any wastewater not generated by a process regulated for the specific pollutant by a categorical standard under 40 CFR, subchapter N.

(20) "Direct discharge" - The discharge of treated or untreated wastewaters directly to the waters of the State of Tennessee.

(21) "Easement" - An acquired legal right for the specific use of land owned by others.

(22) "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 his/her duly authorized representative of said agency.

(23) "Equipment" - All movable, non-fixed items necessary to the wastewater treatment process.

(24) "Federal pretreatment standards" - Federal regulations for pretreatment of industrial wastewater under 40 CFR, subchapter N and any applicable regulations, as amended.

(25) "Garbage" - The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

(26) "Grab sample" - A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and without consideration of time.

(27) "Holding tank waste" - Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

(28) "Incompatible pollutant" - All pollutants other than compatible pollutants as defined in this section.

(29) "Indirect discharge" - The discharge or the introduction of pollutants into a POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the Act and including holding tank wastes discharged into the system.

(30) "Industrial user" - A source of indirect discharge.

(31) "Industrial waste" - The wastewaters from industrial or commercial processes as distinct from domestic or sanitary wastes.

(32) "Interceptor" - A device designed and installed so as to separate and retain deleterious, hazardous and undesirable matter from domestic wastes while permitting domestic sewage or liquid wastes to discharge into the sewer system or drainage system by gravity. Interceptor as defined herein is commonly referred to as a grease, oil or sand trap.

(33) "Interference" - A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or collection system; or contributes to a violation of any requirement of Metro's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 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 POTW. (Prior code § 40-1-5 (a)(19)).

(34) "Local limit" - Specific discharge limits developed and enforced by the POTW upon industrial and commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).

(35) "Maximum daily concentration" - The maximum concentration per day of a pollutant based on the analytical results obtained from a twenty-four (24) hour composite sample.

(36) "May" - This is permissive.

(37) "National Pollutant Discharge Elimination System or NPDES Permit" - A permit issued pursuant to section 402 of the Act (33 USC 1332).

(38) "NPDES state" - a state (as defined in 40 CFR, 122.2) or interstate water pollution control agency with an NPDES permit program approved pursuant to section 402(b) of the Act. In this definition, the state refers to the State of Tennessee.

(39) "Natural outlet" - Any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

(40) "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 one hundred twenty (120) days of a proposal in the federal register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(41) "Non-significant categorical industrial user" - An industrial user that is subject to categorical pretreatment standards but is determined by the city administrator to not be a significant industrial user on a finding that the

industrial user never discharges more than one hundred (100) gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard" and the following conditions are met:

(a) The industrial user, prior to the city administrator's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(b) The industrial user annually submits the certification statement required in § 18-308(13)(b) {see Tennessee Rule 1200-4-14-.12(17)}, together with any additional information necessary to support the certification statement; and

(c) The industrial user never discharges any untreated concentrated wastewater.

Upon a finding that a user meeting the criteria in subsection (b) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city administrator may at any time, but at least once every twelve (12) months, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user should not be considered a significant industrial user.

(42) "Operation and maintenance expenses" - All annual operation and maintenance expenses including replacement cost works as shown by annual audit.

(43) "Pass through" - The allowable concentration of a parameter allowed by the POTW.

(44) "Person" - Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

(45) "pH" - The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

(46) "Pollutant" - Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural wastes discharged into water.

(47) "Pollution" - The man-made or man-induced alteration of the chemical, physical, biological and/or radiological integrity of water.

(48) "POTW treatment plant" - That portion of the POTW designed to provide treatment to wastewater.

(49) "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 or biological processes, or process change(s), or other means, except as prohibited by 40 CFR 403.6(d).

(50) "Pretreatment requirements" - Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on a significant industrial user.

(51) "Prohibitive discharge standard" - Any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

(52) "Properly shredded garbage" - The wastes from the preparation, cooking and dispensing of food that has 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 inch (1/2") in any dimension.

(53) "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 conveyance not connected to a facility providing treatment. For the purpose of this chapter "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the jurisdiction of the city who are users to the city's POTW.

(54) "Public sewer" - A common sewer controlled by a governmental agency or public utility. In general, the public sewer shall include the main sewer in the street and the service branch to the curb or property line, or a main sewer on private property and the service branch to the extent of ownership by public authority.

(55) "Replacement" - Expenditure for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(56) "Sanitary sewer" - A sewer that carries liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions.

(57) "Sewage" - The spent water of a community. Domestic or sanitary waste shall mean the liquid or waterborne wastes from residences, commercial buildings and institutions and is distinct from industrial sewage. The terms "sewage" and "wastewater" are used interchangeably.

(58) "Sewage system or works" - All facilities for collecting, transporting, pumping, treating and disposing of sewage and sludge, namely the sewerage system and POTW.

(59) "Sewer" - A pipe or conduit that carries wastewater or drainage water.

(60) "Sewer user charges" - A system of charges levied on users of a POTW for the cost of operation and maintenance, including replacement of such works.

(61) "Shall" - This is mandatory.

(62) "Significant industrial user" - Any user of the city's wastewater disposal system who:

(a) Is subject to a categorical pretreatment standard(s) under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(b) Has a discharge flow of twenty-five thousand (25,000) gallons or more per average work day; or

(c) Has a flow greater than five percent (5%) of the flow in the city's wastewater treatment system; or

(d) Has in its wastewaters toxic pollutants as defined pursuant to section 307 of the Act or state statutes and rules; or

(e) Is found by the city, state approval authority or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(63) "Significant noncompliance" - A violation that meets one (1) or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-307(2);

(b) Technical Review Criteria (TRC) - Violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-307(2) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-307(2) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city administrator determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the

city administrator's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in an individual wastewater discharge permit, or a general permit, or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation(s), which may include a violation of best management practices, which the city administrator determines will adversely affect the operation or implementation of the local pretreatment program

(64) "Slug load" or "slug discharge" - Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards of this ordinance. A slug discharge is any discharge of non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits, or permit conditions.

(65) "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.

(66) "State" - The State of Tennessee.

(67) "Storm drain or storm sewer" - A drain or sewer for conveying water, groundwater, surface water, or unpolluted water from any source.

(68) "Stormwater" - Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(69) "Submission" - The information required by the City of La Vergne to administer the approved pretreatment program.

(70) "Surcharge" - A charge for service in addition to the basic sewer user and debt service charge, for those users whose contribution contains Biochemical Oxygen Demand (BOD), Chemical Oxygen Demand (COD), Suspended Solids (SS) or Ammonia Nitrogen ($N\text{-}NH_3$) in concentrations which exceed limits specified herein for such pollutants.

(71) "Suspended solids (TSS)" - Total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

(72) "Toxic pollutant" - Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of CLEAN WATER ACT section 307(a) or other Acts.

(73) "Unpolluted water" - Water of quality equal to or better than the treatment works effluent criteria in effects or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

(74) "User" - Any person who contributes, causes or permits the contribution of wastewater into the POTW. See definition of "person."

(75) "User charge" - The charge levied on all users, including but not limited to, persons, firms, corporations, or governmental entities that discharge, cause, or permit the discharge of sewage into the POTW.

(76) "Wastewater" - The spent water of a community. Sanitary or domestic wastes shall mean the liquid and water-carried wastes from residences, commercial buildings and institutions as distinct from industrial wastes. See sewage.

(77) "Wastewater discharge permit" - As set forth in the administration section of this chapter.

(78) "Wastewater facilities" - The structures, equipment and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

(79) "Wastewater treatment works" - An arrangement of devices and structures for treating domestic wastewaters and sludges. Sometimes used synonymously as "waste treatment plant" or "sewage treatment plant."

(80) "Watercourse" - A natural or artificial channel for the passage of water either continuously or intermittently.

(81) "Waters of the state" - All streams, lakes, ponds, marshes, water courses, water ways, wells, springs, reservoirs, aquifers, irrigation system, drainage system and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof. (1994 Code, § 18-402, as replaced by Ord. #2015-07, May 2015)

18-303. <u>Abbreviations</u>. The following abbreviations shall have the designated meanings.

BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
CWA	Clean Water Act of 1979
EPA	Environmental Protection Agency
l	liter
mg/l	milligram per liter (parts per million)
µg/l	micron per liter (parts per billion)

NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act (42 U.S.C. 6901, et. seq.)
TSS	Total Suspended Solids
U.S.C.	United States Code

Terms not otherwise defined herein, if questioned, shall be as adopted in the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation. (1994 Code, § 18-403, as replaced by Ord. #2015-07, May 2015)

18-304. Use of public sewers. (1) Mandatory sewer connection.

(a) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner's 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 thirty (30) days after date of official notice to do so, provided that said public sewer is within five hundred feet (500') of the property line, and is determined by the city to be technically feasible to make said connection.

(b) 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 wastewater where public sanitary sewer service is available, as defined in paragraph (a), except as provided for in "private wastewater disposal" (§ 18-305). The existence within the city, wherever the services of the city sanitary sewage collection, treatment and disposal facilities are available, or may hereafter be made available, of septic tanks, seepage laterals, privies, earth pits, cesspools, sanitary waste vaults, sewage drainage fields, private sewage disposal systems, or any other such facilities or works for the disposition of sanitary sewage wastes other than the facilities of the city, is hereby declared to be a menace to the public health, safety and general welfare of the citizens and inhabitants of the city and is hereby determined and declared to constitute a public nuisance. The existence of such facilities as toilets, sinks, wash basins, showerbaths, bathtubs, any commercial or industrial machinery or device producing a liquid waste product, etc., in or upon any improved property or sewage collection, treatment and disposal system are available or may hereafter be made available is similarly declared to be a menace to the public health and general welfare for the city and its inhabitants, unless

such facilities are connected to the city sewage collection, treatment and disposal system. The city administrator may prescribe the type and manner of connection to said facilities, and may require that each connection be supervised and inspected by an authorized and qualified agent of the city sewer department.

(c) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer system in compliance with this chapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material or salvaged and removed.

(2) Unlawful discharge to storm sewers or natural outlets. (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 City of La Vergne or in any area under the jurisdiction of said city or into any sewer which connects to the storm sewer system of the City of La Vergne, any objectionable wastewater or industrial wastes.

(b) It shall be unlawful to discharge to any natural outlet within the City of La Vergne or in any area under the jurisdiction of said city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions.

(3) Compliance. Compliance with local, state and federal laws. The discharge of any wastewater into the public sewer system by any person is unlawful except in compliance with the provisions of this chapter, and any more stringent state or federal standards promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977 and subsequent amendments.

(4) Discharge of unpolluted waters into sewer. (a) No person(s) shall discharge or cause to be discharged through any leak, defect or connection any unpolluted waters such as stormwater, ground water, roof runoff, subsurface drainage or cooling water to any sanitary sewer, building sewer, building drain or building plumbing. The city administrator or his representative shall have the right, at any time, to inspect the inside or outside of buildings or smoke test for connections, leaks, or defects to building sewers and require disconnection or repair of any pipes carrying such water to the building sewer. Such waters shall not be removed through the dual use of a sanitary drain sump or a sump pump to building sanitary sewer. Discharge of such waters by a manual switch-over from sanitary sewer to storm drainage will not be an acceptable method of separation. In case both storm and sanitary sewage is present, separate drainage or pumping system shall be included.

(b) Stormwater, groundwater and all other unpolluted drainage may be discharged to such sewers as are used as storm sewers approved

by the city administrator. Under no circumstances shall sanitary sewage be discharged to a storm sewer.

(c) The owner(s) of any building sewers having such connections, leaks, or defects shall bear all costs incidental to removal of such sources.

(5) Substances which interfere. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to federal categorical pretreatment standards or any other federal, state or local pretreatment standards or requirements. A user shall 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 a wastestream exhibit a closed cup flashpoint of less than one hundred forty degrees (140°) Fahrenheit (sixty degrees (60° Centigrade) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and any other substances which have a closed cup flashpoint of one hundred forty degrees (140°) Fahrenheit (sixty degrees (60°) Centigrade) or less, and any substance which the city, state or EPA has notified the user is a fire hazard or a hazard to the sanitary sewer system.

(b) Any waters or wastes having a pH lower than six (6) or higher than nine (9) or having any other corrosive property(s) capable of causing damage or hazard to structures, equipment and personnel of the POTW.

(c) Any slug load or pollutants, including oxygen demanding pollutants, released at a flow or concentration that will cause interference with the POTW's operation.

(d) Solid or viscous substance in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities.

(e) 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 that will result in a treatment plant influent temperature which exceeds one hundred four degrees (104°) Fahrenheit (forty degrees (40°) Centigrade).

(f) Any pollutant(s) which, either alone or by interaction with other substances, produce toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(g) Any substances which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal, developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(h) Any substance which causes the POTW to violate its NPDES permit, sludge disposal permit or the water quality standards of the receiving stream.

(i) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through at the POTW.

(j) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety.

(k) Any trucked or hauled pollutants, except at discharge points designated by city administrator.

(6) Grinder, septic tank use accessibility, pump ownership, electrical hookup are allowed to the City of La Vergne sewer system. (1994 Code, § 18-404, as replaced by Ord. #2015-07, May 2015)

18-305. <u>Private wastewater disposal</u>. (1) <u>Public sewer not available</u>.

(a) Where a public sanitary sewer is not available under the provisions of § 18-304, the building sewer shall be connected, until the public sewer system is available, to a private wastewater disposal system complying with the provisions of applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary, the sludge may be disposed of only as approved by the city, by operators licensed by the city for such purposes.

(c) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by applicable local, state or federal regulations.

(d) Industries with current NPDES permits may discharge at permitted discharge points provided they are in compliance with the conditions of said permit.

(2) Requirements for installation. (a) The type, capacity, location and layout of a private sewage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the city administrator after approval of the system by the local and state authorities if required. The application for such permit shall be made on a form furnished by the city administrator which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the city administrator.

(b) A permit for private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, if required. These authorities shall be allowed to inspect the work at any stage of construction, and in any event the applicant for the permit shall notify the city administrator when the work is ready for final inspection and before any underground portions are covered.

(c) No certificate shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than seventy-five hundred (7,500) square feet.

(d) Any private sewage disposal system must be constructed in accordance with the requirements of the State of Tennessee, the Rutherford County Health Department and of the City of La Vergne and must be inspected and approved by the authorized representative of the Rutherford County Health Department and by the city administrator.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times.

(3) Requirements for connections. (a) Where the building drain of any residence, office, recreational facility or other establishment used for human occupancy is below the elevation to obtain a one percent (1%) grade in the building sewer but is otherwise accessible to a public sewer as provided in § 18-304(1)(a), the owner shall provide a private sewage pumping station as provided in § 18-306(4)(c) and (i), unless the property is located in an area where the city is providing pumping stations as a part of the system.

(b) When a public sewer becomes available, the building sewer shall be connected to such public sewer within ninety (90) days of date of notice to do so, and the private sewage disposal system shall be cleaned of sludge and filled with suitable material. (1994 Code, § 18-405)

18-306. Building sewers and connections. (1) General. (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the city administrator.

(2) Permits. (a) There shall be two (2) classes of building sewer permits:

(i) For residential and commercial service, and

(ii) For service to establishments producing industrial wastes. In either case, the customer or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the city administrator. An application fee shall be paid to the city at the time the application is filed. The fee shall be paid by all new residences and transferrals including industrial and commercial.

This application fee shall be twenty-five dollars ($25.00) non-refundable. Applicants for industrial building sewer permits shall provide a description of the constituents of the waste and shall, if requested by the city, provide a laboratory analysis of the waste if it is in being or of a similar waste if the applicant has another facility in being with a similar waste.

(b) Users shall notify the city administrator of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the POTW a minimum of thirty (30) days prior to the change. The city administrator may deny or condition this new introduction or change based upon the information submitted in the notification.

(c) All customers to whom a public sewer is accessible shall connect to the sewer as provided in this chapter following payment of the application, inspection, and connection fees. Customers failing to connect to the new system under these provisions or those who wish to connect to existing public sewers in the future will be required to pay a "tap" or connection fee to defray the cost to the City of La Vergne of providing for the service connection. The connection fee will be established as provided by ordinance.

(d) All costs and expense incident to the installation and connection of the building sewer shall be borne by the customer. The customer shall indemnify the City of La Vergne from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(e) A separate and independent building sewer shall be provided for every building.

(f) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city administrator, to meet all requirements of this chapter.

(3) Prohibited connections. (a) Prohibitions on storm drainage and ground water. No person shall make connections of roof downspouts, basement wall seepage or floor seepage, exterior foundation drains, area

way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this chapter shall be completely and permanently disconnected within sixty (60) days of the effective date of this chapter. The owners of any building sewers having such connections, leaks or defects shall bear all costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground and surface water shall be separate from wastewater facilities. Removal of such sources of water without presence of separate facilities shall be evidence of drainage to the public sanitary sewer.

(b) Limitations on point of discharge. No person shall discharge any substance directly into a manhole or other opening in a community sewer other than through an approved building sewer, unless a temporary permit by the city administrator is issued. The city administrator shall incorporate in such temporary permits such conditions as he deems reasonably necessary to insure compliance with the provisions of this chapter and the user shall be required to pay applicable charges and fees therefore.

(4) Design and installation. (a) Building sewers shall be at least four inches (4") in diameter. Larger building sewers shall be used as necessary in order to carry the flow anticipated. Four inch (4") building sewers shall be laid on a grade of at least one percent (1.0%). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2.0') per second. Slope and alignment of all building sewers shall be neat and regular. Pipe materials as specified in paragraph (b), below, shall be used. Pipe shall conform to the appropriate ASTM Specification and shall be laid in conformance with the appropriate ASTM Specification or with S.P.C.F. Manual of Practice No. 9. No more than a two-family dwelling per simplex station (grinder pump) and no more than one (1) commercial establishment per station unless approved by the city.

(b) The pipe for house services may be either:

(i) SDR 35 PVC pipe meeting ASTM Specification D3034 with rubber gasketed push-on type joints, or

(ii) Commercial extra heavy grade cast iron soil pipe conforming to Federal Specification WW-P-401-D with bituminous coating. PVC pipe shall have a minimum wall thickness of 0.125 inches for 4-inch pipe and 0.180 inches for 6-inch pipe and shall be installed in accordance with recommended practice for "Underground Installation of Flexible Thermoplastic Sewer Pipe," ASTM Designation D2321.

Cast iron soil pipe shall be installed in compliance with applicable provisions of WPCF Manual of Practice No. 9.

(c) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer at a grade of one percent (1%) or more is 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 it too low to permit gravity flow to the public sewer, sanitary sewerage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(d) The connection of the building sewer into the public sewer shall conform to the rules and regulations the city may establish and the procedures set forth in appropriate specifications of the ASTM and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made water tight. Any deviation from the prescribed procedures and materials must be approved by the city administrator before installation.

(e) At or near the point of entry of the building sewer into the building being served, an open vent, vented to atmosphere, shall be provided. The vent shall have an inside diameter of at least three inches (3").

(f) The applicant for the building sewer permit shall notify the city administrator when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city administrator.

(g) At least one (1) cleanout shall be provided for each building sewer. The cleanout shall be located as near to the building as possible. Additional cleanouts are recommended at any horizontal change in direction in the building sewer requiring a forty-five degree (45°) or greater bend. In the case of connections with individual pumps located close to the building, the requirement for a cleanout may be waived by the city administrator.

(h) 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.

(i) Simplex station (grinder pump) installation.

(j) Destruction or malice to any city owned appurtenances, pumps, or tanks shall be the responsibility of the owner. A charge for replacement of said equipment and labor shall be rendered.

(k) Upon review by the city and city administrator, a service charge may be imposed on any commercial or residential user for foreign material or breakage of the pump station whether duplex or simplex such as but not limited to plastic, cloth, metal, wood, etc.

(5) Inspection. The applicant for the building sewer permit shall notify the city administrator when the building is ready for inspection and connection to the public sewer.

(6) Maintenance. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the city administrator to meet specifications of the city. (1994 Code, § 18-406, as amended by Ord. #2012-10, June 2012, and replaced by Ord. #2015-07, May 2015)

18-307. Pollutant discharge limits. (1) General conditions. The following described substances, materials, waters, or waste shall be limited in discharge to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The city administrator may set additional limitations or limitations more stringent than those established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the city administrator shall give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors.

(2) Maximum concentrations. No person or user shall discharge wastewater in excess of the pollutant concentrations identified in Metro Water Services Operational Division Policy No. 2008-01 for Local Limits (TABLE A),[1] unless:

(a) An exception has been granted the user under the provisions of § 18-309; or

(b) The wastewater discharge permit of the user provides, as a special permit condition, a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in the table within a fixed period of time.

Local limits: POTW is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14- 05(3).

The POTW may develop Best Management Practices (BMPs) by ordinance or in individual wastewater discharge permits, or general permits, to implement local limits and the requirements of § 18-307(2).

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[1]TABLE A is provided at the end of this chapter (title 18, chapter 3).

(3) Restricted discharges. (a) No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters in any sanitary sewer.

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers, or to a natural outlet approved by the city administrator.

(c) No person shall discharge or cause to be discharged any of the following described waters or waste to the sanitary sewers:

(i) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(ii) Any waters or wastes containing toxic or poisonous solids, herbicide, pesticide, liquid, 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 public hazard in the receiving waters of the sewage treatment plant.

(iii) Any waters or wastes having a pH lower than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(iv) Solid or viscous substances in quantities or of such size capable of causing obstructions to flow in sewers or other interference with the proper operation of the sewage works such as, but not limited to, ashes, tar, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(d) No person shall discharge or cause to be discharged any of the following described waters or wastes to the sanitary sewers except by special written permit, and then only in strict accordance with the terms of the permit. No permit will be issued if it appears likely in the opinion of the city administrator that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, violate the national pollutant discharge elimination system program or the regulations of the State of Tennessee or the Environmental Protection Agency, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the city administrator will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials or 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:

(i) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F).

(ii) Any water or waste containing fats, wax, grease, oils whether emulsified or not, in excess of one hundred (100) mg/liter or containing substances which may solidify or become viscous at temperatures between thirty-two degrees Fahrenheit (32° F) and one hundred fifty degrees Fahrenheit (150° F).

(iii) Any waters or wastes containing acidic or alkaline solutions, iron pickling wastes, metal plating wastes, or other process wastes, in sufficient quantities as to be detrimental to the biological treatment process whether by increasing the alkalinity, the acidity, the ionic concentration, or the toxicity. Prospective dischargers with the wastes which fall into the classifications of this section shall be responsible for proving their compliance.

(iv) Wastewater that will cause the influent concentration at the central Metro Wastewater Treatment Plant to exceed the pollutant levels identified in Metro's Operational Division Policy No. 2008-01 for Wastewater Treatment Plant Protection Criteria - Treatment Plant Influent - Maximum Concentrations (TABLE B).[1] Metro shall monitor the treatment works influent for each pollutant identified in the Operational Division Policy No. 2008-01 (TABLE B).[1] In the event that the influent at the treatment works reaches or exceeds the levels established by said table, Metro shall initiate technical studies to determine the cause of the influent violation and shall initiate such remedial measures as are necessary, including but not limited to the establishment of new or revised pretreatment levels for these parameters. Metro may also change any of these criteria in the event the POTW effluent standards are changed or in the event changes are deemed advisable for effective operation of the POTW.

(v) Any waters or wastes exerting an excessive chlorine demand as determined by the city administrator.

(vi) Any waters or wastes containing producing substances, in such concentration exceeding limits which may be established by the city administrator 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.

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[1]TABLE B is provided at the end of this chapter (title 18, chapter 3).

(vii) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city administrator in compliance with applicable state or federal regulations.

(viii) Any waters or wastes containing unusual concentrations of inert dissolved or suspended solids.

(ix) Any water or waste so discharged as to cause slugs as defined herein.

(x) Any water or waste containing excessive color which, upon passing through the treatment plant, results in concentrations which exceed the discharge limits set forth in the city's NPDES discharge permit.

(xi) Any water or waste containing or resulting in noxious or malodorous gases which create public nuisances or prevent entry into the sewer for maintenance or repair.

(xii) 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 city administrator.

(xiii) Any discharges not in compliance with federal pretreatment requirements.

(xiv) BOD in excess of three hundred (300) mg/l; COD in excess of six hundred (600) mg/l; suspended solids in excess of three hundred fifty (350) mg/l; fecal coliform in excess of ten thousand (10,000) per one hundred (100) ml; NH3-N in excess of forty (40) mg/l.

(xv) Discharge of any type by septic tank cleaners, waste disposal contractors or liquid or solid cleaners, waste disposal contractors or liquid or solid waste handlers of any type.

(4) Dilution of wastewater discharge. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or for any other pollutant-specific limitation developed by the city or the State of Tennessee.

(5) Grease, oil and sand interceptors. Grease, oil and sand interceptors shall be provided when, in the opinion of the city administrator, they are necessary for the proper handling of liquid wastes containing floatable oils and/or greases 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 type and capacity approved by the city administrator and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of

these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal. The city may require reporting of such information for their review. Any removal and hauling of the collected materials not performed by currently licensed waste disposal firms.

(6) Special industrial pretreatment requirements. (a) Pursuant to the requirements imposed on publicly owned wastewater treatment works by the Federal Water Pollution Control Act Amendments of 1972 and later amendments, all pretreatment standards promulgated by the U.S. EPA under 40 CFR subchapter N and 40 CFR 403 for new and existing industrial discharges to public sewer systems are hereby made a part of this chapter. Any industrial waste discharge which violates these EPA Pretreatment Standards shall be in violation of this chapter.

(b) Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.

(c) Any person who transports septic tank contents, seepage pit or cesspool contents, liquid industrial waste or other batch liquid waste and wishes to discharge such waste to the public sewer system shall first obtain permission for such discharge from the city administrator. All persons receiving such permission shall abide by all applicable provisions of this chapter and any other special provisions that may be established by the city administrator as necessary for the proper operation and maintenance of the sewerage system. Waste haulers who have been granted permission to discharge to the public sewer shall pay fees for such discharge in accordance with a fee schedule established by the city administrator and approved by the city. It shall be illegal to discharge any batch liquid waste into any manhole or other part of the public sewer system, or any building sewer or other facility that discharges to the public sewer systems except at points of discharge designated by the city administrator for such purposes. Any liquid waste hauler shall be subject to immediate revocation of discharge privileges (if granted) and further subject to the penalties and enforcement actions prescribed in § 18-316. Nothing in this chapter shall relieve waste haulers of the responsibility for compliance with county health department, state or federal regulations.

(7) Protection from accidental and slug discharges. (a) For the purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. 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 permit 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, from diked areas or holding ponds. The permittee shall notify the POTW immediately by telephone of any slug loadings, spills, bypasses, upsets, etc., and a follow up written notification within five days, as prescribed in 40 CFR 403 8(f)(2)(v).

(b) Significant industrial users are required to notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge. The city administrator shall evaluate all significant industrial users for the need for a slug control plan or other actions. Any new significant industrial users shall be evaluated for the need of a slug control plan within twelve (12) months of being permitted by the department. Existing significant industrial users may be required to review and resubmit a revision of the slug control plan at the request of the department. Should the department decide that a slug control plan is needed by the industrial user, the plan shall contain, at a minimum, the following elements;

(i) Description of discharge practices, including non-routine batch discharges;

(ii) Description of stored chemicals;

(iii) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5 (b), with procedures for follow-up written notification within five (5) days;

(iv) If deemed necessary by the city administrator, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(8) State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal regulations and limitations or those in this chapter.

(9) City's right to revision. The city reserves the right to establish, by a majority vote of its aldermen, more stringent limitations or requirements on discharges to the POTW at the recommendation of the city administrator or if deemed necessary to comply with the objectives presented in this chapter.

(10) Federal categorical pretreatment standards. Upon the promulgation of federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The city administrator

shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12. (1994 Code, § 18-407, as replaced by Ord. #2015-07, May 2015)

18-308. Pretreatment program administration. (1) Wastewater discharges. It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city and/or to the POTW any wastewater except as authorized by the city administrator in accordance with the provisions of this chapter. Any agency and/or industries outside the jurisdiction of the city that wish to contribute wastewaters to the POTW must first sign (through an authorized representative) an interjurisdictional agreement whereby the agency and/or industrial user agrees to be regulated by all provisions of this chapter, state, and federal regulations. An industrial user discharge permit may then be issued by the city administrator in accordance with § 18-308(3).

(2) Plans and specifications. Plans, specifications, and operating procedures for such wastewater pretreatment facilities shall be prepared by a registered engineer, and shall be submitted to the city administrator for approval. The city administrator shall review said documents and recommend any appropriate changes within forty-five (45) days of submittal. Following the completion of construction, the user shall submit "as-built" drawings to the city administrator to be maintained by the city administrator.

(3) Industrial user discharge permits. (a) General. All significant industrial users proposing to connect to or contribute to the POTW shall obtain an industrial user discharge permit before connecting to or contributing to the POTW. All existing significant industrial users connected to or contributing to the POTW shall apply for an industrial user discharge permit within thirty (30) days of the effective date of this chapter.

(b) Permit application. Users required to obtain an industrial user discharge permit shall complete and file with the city an application in the form prescribed by the city. Existing users shall apply for an industrial user discharge permit within thirty (30) days of the effective date of this chapter, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit in units and terms appropriate for evaluation the following information, in addition to any other information the city administrator may desire:

(i) Name, address and location of facility, and owner(s) if different from that given;

(ii) SIC number(s) according to the Standard Industrial Classification Manual, Office of Management and Budget, 1972, as amended;

(iii) Wastewater constituents and characteristics as determined by an analytical laboratory acceptable to the city;

sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended and 40 CFR 261;

(iv) Time and duration of contribution;

(v) Daily average and maximum wastewater flow rates, including daily, monthly and seasonal variations if any;

(vi) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;

(vii) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(viii) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional pretreatment is required for the user to meet applicable pretreatment standards;

(ix) If additional pretreatment will be required to meet the pretreatment standards, 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 standards. The following conditions shall apply to this schedule:

(A) The schedule must be acceptable to the city.

(B) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards.

(C) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city administrator including, as a minimum, whether or not it complied with the increment of progress to be met on such date, and if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established.

(x) Each product produced by type, amount, process and rate of production;

(xi) Type and amount of raw materials processed (average and maximum per day);

(xii) Number of employees and hours of operation of plant and proposed or actual hours of operation of the pretreatment system;

(xiii) A copy of the industry's written environmental control program, comparable document or policy;

(xiv) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(c) Issuance of industrial user discharge permit. The city administrator shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city administrator may issue an industrial user discharge permit subject to the terms and conditions provided herein.

(4) General permits. At the discretion of the city administrator, general permits may be used to control significant industrial user discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(a) Involve the same or substantially similar types of operations;

(b) Discharge the same types of wastes;

(c) Require the same effluent limitations;

(d) Require the same or similar monitoring; and

(e) In the opinion of the city administrator are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(i) To be covered by the general permit, the significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, and any other information the POTW deems appropriate.

(ii) The city administrator will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in this paragraph (4) and applicable state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.

(iii) General permits will contain the same required information as listed in § 18-308(b).

The control authority may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the Combined

Wastestream Formula or Net/Gross calculations as per 40 CFR 403.

(5) Permit modifications. Within nine (9) months of the promulgation of a federal categorical pretreatment standard, the industrial user discharge permit of any user subject to that standard shall be revised to require compliance with the standard within the time frame prescribed by such standard. Where a user subject to federal categorical pretreatment standards has not previously submitted an application for an industrial user discharge permit as required, the user shall apply for the permit within ninety (90) days of the date of promulgation of the applicable federal categorical pretreatment standard. In addition, the user with an existing industrial user discharge permit shall submit to the city administrator within ninety (90) days of the date of promulgation of an applicable federal categorical pretreatment standard the information required by this chapter.

(6) Permit conditions. (a) Industrial user 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 the public sewer system;

(ii) Limits on the average and maximum wastewater constituents and characteristics, including best management practices, based on applicable pretreatment standards, local limits, state or local law;

(iii) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;

(iv) Requirements for installation and maintenance of inspection and sampling facilities;

(v) Specifications for monitoring programs which may include sampling locations, frequency of sampling to be performed, types and standards of analysis and reporting schedules;

(vi) Compliance schedule(s);

(vii) Requirements for maintaining and retaining all records relating to wastewater discharge as specified by the city for a minimum of three (3) years, and afford 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 treatment system;

(ix) Requirements for notification of slug discharges;

(x) Requirements to control slug discharge, if determined by the city administrator to be necessary.

(xi) Requirements for the user to reimburse the city for all expenses related to monitoring, sampling and testing performed at the direction of the city administrator and deemed necessary by

the city to verify that the user is in compliance with the said permit;

(xii) Statement of duration (in no case more than five (5) years);

(xiii) Statement of non-transferability without, at a minimum prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

(xiv) Effluent limits based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law;

(xv) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in part 403 of this chapter, categorical pretreatment standards, local limits, and state and local law;

(xvi) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(xvii) Any other conditions as deemed appropriate by the city administrator and/or the city to ensure compliance with this chapter.

(b) Where an effluent from an industrial process is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived for the discharge permit by the city administrator. These alternative limits shall be applied to the mixed effluent. These alternative limits shall be calculated using the combined wastestream formula and/or flow-weighted average formula given in 40 CFR 403.6(e). Where the effluent limits in a categorical pretreatment standard are expressed only in terms of mass of pollutants per unit of production (production-based standard), the city administrator may convert the limits to equivalent limitations expressed either as mass of pollutant that may be discharged per day or of effluent permit limitations applicable to the permittee. The permittee shall be subject to all permit limits calculated in this manner under 40 CFR 403.6(c) and must fully comply with these alternative limits. All categorical industrial users subject to production-based standards must report production rates annually so that alternative permit limits can be calculated if necessary. The categorical industrial user must notify the city administrator thirty (30) days in advance of any change in production levels that might affect the flow or other data used to calculate the effluent limits in the discharge permit.

(7) Permit duration. Industrial user discharge permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred twenty (120) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements identified in § 18-307 are modified or other just cause exists. The user shall be informed of any proposed changes in their permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time frame for compliance.

(8) Applicant to be notified of proposed permit conditions; right to object. (a) Upon completion of his evaluation, the city administrator shall notify the applicant of any special permit conditions which he proposed be included in the wastewater discharge permit.

(b) The applicant shall have forty-five (45) days from and after the date of the city administrator's recommendations for special permit conditions to review same and file written objections with the city administrator in regard to any special permit conditions recommended by the city administrator. The city administrator or his representative may, but shall not be required, to schedule a meeting with applicant's authorized representative within fifteen (15) days following receipt of the applicant's objections, and attempt to resolve disputed issues concerning special permit conditions.

(c) If applicant files no objection to special permit conditions proposed by the city administrator, or a subsequent agreement is reached concerning same, the city administrator shall issue a wastewater discharge permit to applicant with such special conditions incorporated therein. Otherwise, the city administrator shall submit the disputed matters to the authority for resolution as hereinafter provided.

(9) Authority to establish permit conditions; hearing. (a) In the event the city administrator cannot issue a wastewater discharge permit pursuant to paragraph (7) above, the city administrator shall submit to the authority his/her proposed permit conditions and the applicant's written objections thereto at the next regularly scheduled meeting of the authority.

(b) The authority shall schedule a hearing within ninety (90) days following the meeting referred to hereinabove unless such time be extended for just cause shown to resolve any disputed matters relevant to such permit.

(c) The city administrator shall notify the applicant of the date, time, place, and purpose of the hearing scheduled by the authority. The applicant shall have the right to participate in such hearing and present

any relevant evidence to the authority concerning proposed special permit conditions or other matters being considered by the authority.

(d) Following such hearing or such additional hearings as shall be deemed necessary and advisable by the authority, the authority shall establish such special permit conditions as its deems advisable to insure the applicant's compliance with this section or other applicable law or regulation and direct the city administrator to issue a wastewater discharge permit to the applicant accordingly.

(10) Permit transfer. Industrial user discharge permits are issued to a specific user for a specific operation. An industrial user 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, at a minimum, a thirty (30) day prior notification of the change to the city administrator and provision of a copy of the existing permit to the owner. The city administrator may deny the transfer of the permit if it is deemed necessary to comply with all provisions of this chapter.

(11) Reporting requirements for permittees. (a) Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the POTW, any user subject to federal categorical pretreatment standards and requirements shall submit to the city administrator a report indicating the nature and concentration of all pollutants in the discharge from the regulated process or processes which are limited by categorical pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such categorical standards and requirements. The report shall state whether the applicable categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional pretreatment equipment and time schedule are necessary to bring the user into compliance with the applicable categorical standard or requirement. This statement shall be signed by an authorized representative of the user.

(b) Periodic compliance reports. (i) All significant industrial users shall submit to the city administrator during the months of June and December unless required more frequently by the city administrator reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the city administrator or the pretreatment standard necessary to determine the compliance status of the user. All periodic

compliance reports must be signed and certified in accordance with § 18-308(14).

(ii) All analyses shall be performed by a laboratory acceptable to the city; all analyses shall be included in the semi-annual compliance report. Analytical procedures shall be in accordance with procedures established by the U. S. EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the U. S. EPA. Sampling shall be performed in accordance with techniques approved by the U. S. EPA.

(iii) Where 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the U. S. EPA.

(iv) All industrial users shall retain all pretreatment records for a minimum of three (3) years, as required by 40 CFR 403.12 (o)(2).

(c) Baseline monitoring reports. (i) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the city a report which contains the information listed in paragraph (ii), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in paragraph (ii), below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(ii) The industrial user shall submit the information required by this section including:

(A) Identifying information. The name and address of the facility including the name of the operator and owners.

(B) Wastewater discharge permits. A list of any environmental control wastewater discharge permits held by or for the facility.

(C) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(D) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(E) Measurement of pollutants. (1) Identify the categorical pretreatment standards applicable to each regulated process.

(2) Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) or regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-308(7)(b). Where the categorical pretreatment standard, local limit, or permit requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the city administrator or the applicable standards to determine compliance with the standard.

(3) Except as indicated in § 18-308(11)(c)(E)(5) or if designated different in the user's permit, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by Metro. Where time-proportional composite sampling or grab sampling is authorized by Metro, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance,

multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by Metro as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(4) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(5) For sampling required in support of baseline monitoring and ninety (90) day compliance reports [40 CFR 403.12(g)(4) and Tennessee Rule 1200-4-14- 12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, Metro may authorize a lower minimum. For the reports required by § 18-308(11)(b) [40 CFR 403.12(g)(4) and Tennessee Rule 1200-4-14- 12(5) and (8)], the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(F) Certification. A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(G) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the

applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-308(3)(b)(ix).

(H) All baseline monitoring reports must be signed and certified in accordance with § 18-308(10).

(iii) All new sources of industrial discharge must be in compliance with all provisions of this chapter prior to commencement of discharge.

(d) Notification of the discharge of hazardous waste. (i) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than ten (10) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents in the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under § 18-308(3)(b), above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of § 18-308(10)(c), above.

(ii) Dischargers are exempt from the requirements of § 18-308(1) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(iii) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics or hazardous waste or listing any additional substance as a hazardous waste, the

industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(iv) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(12) Permit violations. All significant industrial users must notify the city administrator within twenty-four (24) hours of first becoming aware of a permit violation. This notification shall include the date of the violation, the parameter violated and the amount in exceedance. Within thirty (30) days of first becoming aware of a permit violation, the significant industrial user must resample for the parameter(s) violated and submit this sample analysis to the city administrator, unless the city administrator, on behalf of the city, conducts monitoring of this parameter within that thirty (30) day period.

(13) Monitoring requirements. (a) The city shall require significant industrial users to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage system. The monitoring facility should normally be situated on the user's premises but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in a public right-of-way. The city administrator shall review and approve the location, plans, and specifications for such monitoring facilities and may require them to be constructed to provide for the separate monitoring and sampling of industrial waste and sanitary sewage flows. 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 expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standard and specifications. Construction shall be completed within ninety (90) days following approval of the location plans and specifications.

(b) All sampling analyses done in accordance with approved U. S. EPA procedures by the significant industrial user during a reporting period shall be submitted to the city administrator, regardless of whether or not that analysis was required by the user's discharge permit.

(c) The significant industrial user must receive the approval of the city administrator before changing the sampling point and/or monitoring facilities to be used in all required sampling.

(14) Certification statement. (a) All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) Annual certification for non-significant categorical industrial users - A facility determined to be a non-significant categorical industrial user by the city administrator must annually submit the following certification statement signed by an authorized representative of the user.

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, [months,days, year]:

(a) The facility described as _____ [facility name] met the definition of a non-significant categorical industrial user.

(b) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

(d) This compliance certification is based on the following information."

(c) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written

authorization satisfying the requirements of this section must be submitted to the city administrator prior to or together with any reports to be signed by an authorized representative.

(15) Inspection and sampling. The city administrator 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 its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, copying and examination of records or in the performance of their duties. "Reasonable times" shall include any time during which the user is discharging to the public sewer system and/or operating any manufacturing process. The city, approval authority and U. S. EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspections, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry onto their premises, the user shall make the necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city, approval authority and U. S. EPA will be permitted to enter, without delay, for the purpose of performing their specific duties.

(16) Pretreatment. (a) All significant industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all applicable federal categorical pretreatment standards within the time limits as specified by the federal pretreatment regulations. The city may require the development of a compliance schedule for installation of pretreatment technology and/or equipment by any significant industrial user that is not meeting discharge limits established in the user's industrial user discharge permit. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city administrator for review, and shall be acceptable to the city administrator before construction for the facility. The review of such plans and operating procedures will 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. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the change.

(b) The city administrator shall publish annually, in a newspaper of local circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and

requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (iii), (iv) or (viii) of this section) and shall mean:

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-307(2);

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-307(2) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(iii) Any other violation of a pretreatment standard or requirement as defined by § 18-307(2) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city administrator determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(iv) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the city administrator's exercise of its emergency authority to halt or prevent such a discharge;

(v) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit, or a general permit, or enforcement order for starting construction, completing construction, or attaining final compliance;

(vi) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(vii) Failure to accurately report noncompliance;

(viii) Any other violation(s), which may include a violation of best management practices, which the city administrator determines will adversely affect the operation or implementation of the local pretreatment program.

(17) Repeat sampling and reporting/notice of violation. If sampling performed by a user indicates a violation, the user must notify the city

administrator or designee within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city administrator or designee within thirty (30) days after becoming aware of the violation, resampling by the industrial user is not required if the city administrator or designee performs sampling at the user's facility at least once a month, or if the city administrator or designee performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city administrator or designee receives the results of this sampling, or if the city administrator or designee has performed the sampling and analysis in lieu of the industrial user. If the city administrator or designee performed the sampling and analysis in lieu of the industrial user, the city administrator or designee will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(18) Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests in writing and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a 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 all governmental agencies for uses related to this chapter, the NPDES permit, and/or the pretreatment program upon request of the agency. 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 shall not be recognized as confidential information and shall be available to the public without restriction.

(19) Record keeping requirements. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. Any user subject to the reporting requirement established in this article shall be required to retain for a minimum of four (4) years any records of monitoring activities and results (whether or not such monitoring activities are required by this article) and shall make such records available for inspection and copying by the city

administrator, the Director of the Tennessee Department of Environment and Conservation, Tennessee Department of Public Health, 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 city administrator, the Director of the Tennessee Department of Environment and Conservation, Tennessee Department of Public Health, or the Environmental Protection Agency. (1994 Code, § 18-408, as replaced by Ord. #2015-07, May 2015)

18-309. Exception of wastewater strength standard.

(1) Applicability. This section provides a method for industrial users subject to the limitation on wastewater strength parameters to apply for and receive a temporary exception to the discharge level for one (1) or more parameters.

(2) Time of application. Applicants for a temporary exception shall apply for same at the time they are required to apply for a wastewater discharge permit or a renewal thereof; provided, however, that the city administrator shall allow applications at any time unless the applicant shall have submitted the same or substantially similar application within the preceding year and the same shall have been denied by the authority.

(3) Written applications. 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 authority pursuant to § 18-309(5) hereof.

(4) Review by city administrator. All applications for an exception shall be reviewed by the city administrator. If the application does not contain sufficient information for complete evaluation, the city administrator shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the city administrator to correct such deficiencies. This thirty (30) day period may be extended by the authority upon application and for just cause shown. Upon receipt of a complete application, the city administrator shall evaluate same within thirty (30) days and shall submit his recommendations to the authority at its next regularly scheduled meeting.

(5) Review by authority. The authority shall review and evaluate all applications for an exception and shall take into account the following factors:

(a) The authority shall consider whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those listed and grant an exception only if such exception may be granted within limitations of applicable federal regulations.

(b) The authority shall consider 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 USC 1317), and then

grant an exception only if such exception may be granted with the limitations of applicable federal regulations.

(c) The authority shall consider 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.

(d) The authority shall consider whether or not the granting of an exception might cause the treatment works to violate the limitations in its NPDES permit taking into consideration the concentration of the pollutant and in the treatment works' influent and the demonstrated ability of the treatment works to consistently remove such pollutant.

(e) The authority shall consider whether or not the granting of an exception would cause elements or compounds to be present in the sludge of the treatment works which would prevent sludge use or disposal by La Vergne or which would cause La Vergne to violate any regulation promulgated by EPA under the provisions of section 405 of the Act (33 USC 1345).

(f) The authority may consider the cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive cost alone shall not be the basis for granting an exception.

(g) The authority may consider the age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge.

(h) The authority may consider the process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge.

(i) The authority may consider 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.

(j) The authority may consider an application for an exception based upon the fact that water conservation measures instituted by the user or proposed by the user result in a higher concentration of particular pollutants in the wastewater discharge of the user without increasing the amount of mass of pollutants discharged. To be eligible for an exception under this subparagraph, the application must show that except for water conservation measures, the applicant's discharge has been or would be in compliance with the limitations on wastewater strength set forth previously, provided, however, no such exception shall be granted if the increased concentration of pollutants in the applicant's wastewater would have a significant adverse impact upon the operation of the POTW.

(6) Good management practices required. The authority shall not grant an exception unless the applicant shall demonstrate to the authority that

he is utilizing "Good Management Practices" (GMP) to prevent or reduce his contribution of pollutants to the POTW. GMPs include but are not limited to preventative operating and maintenance procedures, schedule of activities, process changes, prohibiting of activities, and other management practices to reduce the quality or quantity of effluent discharged and to control plant site runoff, spillage, leaks, and drainage from raw material storage.

(7) Exception may be granted following review. The authority shall review the application for an exception at the first regularly scheduled meeting following recommendation of the city administrator. It may grant the application for exception with such conditions or limitations as may have been recommended by the city administrator without a hearing provided that no person, including the applicant, shall object thereto, and provided further that the authority finds that the granting of the exception with such conditions as have been recommended by the city administrator will be in compliance with the provisions of this section.

(8) Hearing. In the event that the applicant objects to recommendations of the city administrator concerning conditions to be imposed upon the applicant, the authority desires a hearing to further investigate the matter, or any interested party granted permission by the authority to intervene objects to the granting of the exception, then in such event the authority shall schedule a hearing within ninety (90) days following presentation of the matter by the city administrator to resolve such matters. At such hearing, the applicant, the city administrator, and any intervening party shall have the right to present relevant proof by oral or documentary evidence. The procedure set forth in § 18-313 hereof shall be applicable to such a hearing. The applicant shall bear the burden of proof in such hearing.

(9) Additional costs and expense. The city administrator may require any person discharging substances in strengths greater than those permitted by this chapter to pay any additional costs or expense incurred by Metro for transmission and treatment of such substances.

The treatment system shall be reviewed at the end of each fiscal year and appropriate surcharge rates applied to the wastewater billing.

Such charge for the BOD, suspended solids, and oil and grease will be computed using the following formula:

Surcharge ($)/P = 8.34 x (F) x (TC) x (Pa-Pm)
Surcharge ($) total = Surcharges of BOD_5 + Suspended Solids and Grease
P - Parameter: BOD_5 or Suspended Solids or Grease
F - Flow in millions of gallons per day
TC - Treatment costs for servicing POTW per pound of parameter
Pa - Parameter, actual
Pm - Parameter, maximum

Charges for other pollutants will be computed on a case by case basis. (1994 Code, § 18-409, as replaced by Ord. #2015-07, May 2015)

18-310. Inspections monitoring and dangerous discharge notification.

(1) Inspections monitoring and entry. (a) Whenever required to carry out the objective of this section, including but not limited to:

(i) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition under this section;

(ii) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, standard of performance or permit condition;

(iii) any requirement established under this section:

(A) The city administrator shall require any industrial user to:

(1) establish and maintain such records,

(2) make such reports,

(3) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods),

(4) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the city administrator shall prescribe), and

(5) provide such other information as he may reasonably require.

(B) The city administrator or his authorized representative, upon presentation of his credentials:

(1) shall have a right to entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under § 18-310(1)(a)(iii)(A) of this subsection are located; and

(2) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under § 18-310(1)(a)(iii)(A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

(2) Maintenance of records. Any records, reports, or information obtained under this section:

(a) shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or permit condition, and

(b) shall be available to the public, except that upon a showing satisfactory to the city administrator by any person that records, reports, or information, or particular part thereof (other than effluent date), to which the city administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the city administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of this section, except that such record, report, or information may be disclosed to officers, employees, or authorized representatives of the State of Tennessee or the United States concerned with carrying out the provisions of the Clean Water Act or when relevant in any proceeding under this section or other applicable laws.

(3) Requirements. Specific requirements under the provisions of § 18-310(1)(a) shall be established by the city administrator, or the authority as applicable, for each industrial user and such requirements shall be included as a condition of the user's wastewater discharge permit. The nature or degree of any requirement under this provision shall depend upon the nature of the user's discharge, the impact of the discharge on the POTW, the volume of water discharged, and the technical feasibility of and economic reasonableness of any such requirement imposed. The user shall be required to design any necessary facility, and to submit detailed plans and operating procedures to the city administrator for review in accordance with accepted engineering practices. The city administrator shall review said plans within forty-five (45) days and shall recommend to the user any change he deems appropriate.

(4) Permits. Upon approval of plans as specified in § 18-310(3), the user shall secure building, electrical, plumbing or other permits as may be required by this code and proceed to construct any necessary facility and establish such operating procedures as are required within the time provided in the user's wastewater discharge permit.

(5) Inspection. In the event any user denies the city administrator or his authorized representative of the right of entry, to or upon the user's premises, for purposes of inspection, sampling effluents, or inspecting and copying records or performing such other duties as shall be imposed upon him by this section, the city administrator shall seek a warrant or use such other legal procedures as shall be advisable and reasonably necessary to discharge his duties under this section. (1994 Code, § 18-410, as replaced by Ord. #2015-07, May 2015)

18-311. Dangerous discharge notification requirements.

(1) Telephone notification. Any person causing or suffering any discharge whether accidental or not, which presents or may present an

imminent or substantial endangerment to the health and welfare of persons, to the environment, or which is likely to cause interference with the POTW, shall notify the city administrator immediately by telephone. In the absence of the city administrator, notification shall be given to the La Vergne employee then in charge of the collection system.

(2) Written report. Within five (5) days following such occurrence, the user shall provide the city administrator with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of 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 section or other applicable law.

(3) 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 insure that all employees who may cause or suffer such dangerous discharge to occur are advised of the emergency notification procedure. (1994 Code, § 18-411, as replaced by Ord. #2015-07, May 2015)

18-312. Responsibilities of city administrator. (1) City administrator and staff. The city administrator and his staff shall be responsible for the administration of all sections of this section.

(2) Authority of city administrator. The city administrator shall have the authority to enforce all sections of this section. He shall be responsible for the preparation of operating budgets and recommendations concerning activities within his responsibility and authority.

(3) Records. The city administrator shall keep in his office all applications required under this section, a complete record thereof, including a record of all wastewater discharge permits. He shall also maintain the minutes and other records of the La Vergne Hearing Authority.

(4) City administrator to assist La Vergne hearing authority. The city administrator shall attend all meetings of the La Vergne hearing authority or whenever it is necessary for him to be absent he shall send a designated representative, and shall make such reports to and assist said authority in the administration of this section.

(5) Notification. The city administrator shall notify industrial users identified in 40 C.F.R. 403.8(f)(2) and (i) of any applicable pretreatment standards or other applicable requirements promulgated by the Environmental Protection Agency under the provisions of section 204(b) of the Act (33 USC 1284), section 405 of the Act (33 USC 1345), or under the provisions of sections 3001 (42 USC 6921), 3004 (42 USC 6924) or 4004 (42 USC 6944) of the Solid Waste Disposal Act. Failure of the city administrator to so notify industrial

users shall not relieve said users from the responsibility of complying with said requirements.

(6) Public notification of violations. The city administrator shall comply with all applicable public participation requirements of section 101(e) of the Act [33 USC 125(e)] and 40 C.F.R. Part 105 in the enforcement of national pretreatment standards. The city administrator shall at least annually provide public notification, in the largest daily newspaper published in Rutherford County of industrial users during the previous twelve (12) months which at least once were not in compliance with the applicable pretreatment standards or other pretreatment requirements. The notification shall summarize enforcement actions taken by the control authorities during the same twelve (12) months. An industrial user shall be deemed to be in compliance with applicable pretreatment standards or other pretreatment requirements if he has completed applicable increments of progress under the provisions of any compliance schedule in the user's wastewater discharge permit or if the user has been granted an exception under the provisions of § 18-309. (1994 Code, § 18-412, as replaced by Ord. #2015-07, May 2015)

18-313. Fees. (1) Purpose. This section provides for the recovery of costs from users of the POTW for the implementation and conduct of the pretreatment program established herein. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.

(2) Charges and fees. The city may adopt charges and fees which may include the following:

(a) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;

(b) Fees from monitoring, inspections and surveillance procedures;

(c) Fees for reviewing accidental discharge procedures and construction;

(d) Fees for permit application;

(e) Fees for filing appeals;

(f) Fees for consistent removal by the POTW of excessive strength conventional pollutants;

(g) Other fees as the city may deem necessary to carry out the requirements contained in this chapter;

(h) Fees for the connection of a discharger (residential or other). These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the city.

(i) Charges shall be comprised for a system of excessive strength surcharges and a system of charges for debt services, operation and maintenance costs including normal replacement costs. (1994 Code, § 18-415, as replaced by Ord. #2015-07, May 2015)

18-314. Powers and authority of inspections. (1) Right to enter premises. The city administrator and other duly promulgated employees and representatives of the city and authorized representatives of applicable federal and state regulatory agencies bearing proper credentials and identification shall be permitted to enter all properties at any reasonable time for purposes of, but not limited to, inspection, observation, measurement, sampling and testing of discharges to the public sewer system and inspection and copying of all records in accordance with the provisions of this chapter.

(2) Right to obtain information regarding discharge. Duly authorized employees and representatives of the city are authorized to obtain information concerning character, strength and quantity of industrial wastes which have a direct bearing on the kind and source of discharge to the wastewater collection system.

(3) Access to easements. Duly authorized employees and representatives of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement and sampling, repair and maintenance of any portion of the wastewater facilities 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.

(4) Safety. While performing the necessary work on private properties referred to in § 18-416(1), all duly authorized employees of the city shall observe all safety rules applicable to the premises established by the facility and the company shall be held blameless for any injury or death to the city employee. The city shall secure 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 gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this chapter. (1994 Code, § 18-416, as replaced by Ord. #2015-07, May 2015)

18-315. Enforcement. (1) General. The city through the city administrator or his designee, to insure compliance with this chapter, may take the following enforcement steps against users in noncompliance with this chapter. The remedies available to the city administrator include injunctive relief, civil and criminal penalties, immediate discontinuance of discharges and/or water service and the publishing of the list of significant violators annually. The enforcement authority shall be vested in the city administrator or his/her designee.

All violations of requirements of this chapter must be reviewed and responded to by the city administrator or his representative. In general, the city administrator shall notify the industrial user when a violation occurs. For all

violations, the city administrator shall receive an explanation and, as appropriate, a plan from the industrial user to correct the violation within a specific time period. If the violation(s) persist or the explanation and/or plan are not adequate, the city administrator's response shall be more formal and commitments or schedules, as appropriate, for compliance will be established in an enforceable document. The enforcement response selected will be related to the seriousness of the violation. Enforcement responses will be escalated if compliance is not achieved expeditiously after the initial action. A significant violation will require a formal enforcement action. The full scale of enforcement actions will be detailed in the city's pretreatment program Enforcement Response Plan Manual.

All users connected to the city's sewer collection system shall comply with and be subject to chapter 15.60 of the Code of the Metropolitan Government of Nashville and Davidson County, Tennessee, along with all other applicable ordinances, rules, and regulations pertaining to pretreatment as adopted by the Metropolitan Government of Nashville and Davidson County, Tennessee.

In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the city, the provision that establishes the higher standard shall prevail.

(2) Enforcement actions. (a) Informal notice. These actions include statements made to the industrial user during sampling and/or inspection visits, telephone calls to the appropriate company official, informal meetings, warning or reminder letters. These informal notices shall be used for minor violations.

(b) Formal notice. These actions include the following:

(i) Notice of violation. Any person found to be violating any provision of this chapter, wastewater discharge permit or any order issued hereunder shall be served by the POTW city administrator with a written notice stating the nature of the violation. The offender must permanently cease all violations.

(ii) Administrative orders/fines. Any person who, after receiving a notice of violation, continues to discharge in violation of this chapter or other pretreatment standard or requirement or is determined to be a chronic or persistent violator, shall be ordered to appear before the city administrator. At said appearance, a compliance schedule will be given to the violating user and an administrative fine assessed. The fine shall be determined on a case-by-case basis which shall consider the type, severity, duration and number of violations, severity of impact on the POTW, impact on human health, user's economic benefit from the violation, past history of the user, and good-faith efforts made by the user. The fine shall be a nonarbitrary but appropriate amount.

Users desiring to dispute such fines shall file with the city administrator a request for the city to reconsider the fine within ten (10) days of being notified of the fine. The city shall convene a hearing on the matter within fifteen (15) days of receiving such a request from the user. The administrative order may take any of the following four forms:

Consent order - The city administrator is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified in the order. Consent orders shall have the same force and effect as all other administrative orders.

Compliance order - When the city administrator finds that an industrial user has violated or continues to violate this chapter or permit or order issued hereunder, he may issue an order to the industrial user responsible for the violation directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

Cease and desist order - When the city administrator finds that an industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the city administrator may issue an order to cease and desist all such violations to the user and direct those persons in noncompliance to:

(A) Comply forthwith;

(B) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

Show cause hearing order - The city administrator may issue to any user who causes or contributes to violations of this chapter, discharge permit or order issued hereunder, an order to appear and show cause why more severe enforcement action should not be taken. A notice shall be served on the user specifying the time and place of the hearing to be held by the city administrator 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 city administrator why more severe

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. Service may be made on any agent or officer of the facility. Whether or not a duly notified industrial user or its representative appears, immediate enforcement action may be pursued.

The city itself may conduct the hearing and take evidence or may designate a representative to:

(1) Issue in the name of the city notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence;

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city for action thereon. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically.

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. After the city has reviewed the evidence, it may issue an order to the user responsible for the violation directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Further orders and directives as are necessary and appropriate may be issued. (1994 Code, § 18-417, as replaced by Ord. #2015-07, May 2015)

18-316. <u>Penalties</u>. All users connected to the city's sewer collection system shall comply with and be subject to chapter 15.60 of the Code of the Metropolitan Government of Nashville and Davidson County, Tennessee, along with all other applicable ordinances, rules, and regulations pertaining to pretreatment as adopted by the Metropolitan Government of Nashville and Davidson County, Tennessee.

In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the city, the provision that establishes the higher standard shall prevail.

(1) <u>Written notice</u>. Any user found to be violating any provision of this chapter or a discharge permit or order issued hereunder shall be served by the city administrator or his representative with written notice stating the nature of the violation. The violator shall permanently cease all violations upon receipt of this notice. As contained in § 18-315, the notice may be of several forms. Also as contained in § 18-315, civil penalties of various forms may be levied against

users for violations of this chapter. The civil penalties shall range from publication of violators to fines in an amount not to exceed the sum of ten thousand dollars ($10,000.00) per day per violation.

(2) Continued violation. Any user who shall violate any provision of this chapter, a discharge permit or other order issued hereunder shall be guilty of a violation of this chapter and shall be liable to the city administrator for a civil penalty of up to ten thousand dollars ($10,000.00) per violation for each day on which the violation occurs. Each day in which such violation occurs shall be deemed a separate offense.

(3) Revocation of permit. Any user violating any of the provisions of this chapter or discharge permit or other order issued hereunder shall be subject to termination of its authority to discharge sewage into the public sewer system. Such termination shall be immediate if necessary for the protection of the POTW. Said user may also have water service terminated. Any user who violates any condition(s) of this chapter, discharge permit, order or applicable state or federal regulations is subject to having its industrial user discharge permit revoked in accordance with the procedures of this chapter. Violations resulting in immediate permit revocation shall include, but not be limited to, the following:

(a) Failure of a user to factually report the wastewater constituents and characteristics of its discharge;

(b) Failure of the user to report significant changes in operation, processes, wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection and sampling; and

(d) Violation(s) of any condition of the industrial user discharge permit.

(4) Liability. Any user violating any of the provisions of this chapter, discharge permit or other order issued hereunder shall become liable to the City of La Vergne for any expense, loss or damage occasioned by the city by reason of such violation. This civil liability is as provided by state and federal regulations.

(5) Misrepresentation and/or falsifying documents. Any user who knowingly and/or negligently makes any false statements, representations or certification of any application, record, reports, plan or other document filed or required pursuant to this chapter or industrial user discharge permit or who falsifies, tampers with or knowingly and/or negligently renders inaccurate any monitoring device or method required under this chapter, shall be punished by a fine of up to ten thousand dollars ($10,000.00) or by imprisonment for not more than twelve (12) months or by both.

(6) Destruction of POTW and legal action. No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the POTW. Any person(s) violating this provision shall be subject to immediate

arrest under charge of disorderly conduct. It shall be noted that the Clean Water Act does not require proof of specific intent to obtain conviction.

(7) Judicial action. If any person(s) discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, discharge permit, any order of the city administrator or the city, or federal or state pretreatment requirements, the city may commence an action for appropriate legal and/or equitable relief in the appropriate court of competent jurisdiction. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person(s) found to have violated this chapter or the orders, regulations and permits issued hereunder.

(8) Termination of service. The city administrator may suspend the wastewater treatment service and/or wastewater discharge permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare for the public, the POTW or the environment. Any user notified of a suspension of the wastewater treatment service and/or the discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city administrator shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. Any industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes for the harmful contribution and the measures taken to prevent any future occurrence to the city administrator.

(9) Criminal prosecution. Any industrial user who willfully or negligently violates any provisions of this chapter, any orders or permits issued hereunder, or any other pretreatment requirements shall, upon conviction, be guilty of a misdemeanor, punishable by a fine up to ten thousand dollars ($10,000.00) per violation per day or imprisonment for not more than one (1) year or both. (1994 Code, § 18-418, as replaced by Ord. #2015-07, May 2015)

18-317. New construction. (1) Plans and specifications. On all new additions to sewage system for single family dwellings containing a grinder pump or above one (1) single family dwelling served by gravity sewer, there shall be two (2) sets of plans and specifications submitted to the city for review by the city and the city engineers.

(2) City specifications. All new work shall be done in accordance with city specification. Any changes in specifications must be submitted in writing to city thirty (30) days in advance for approval by city and city engineers.

(3) Inspections. All new work shall be inspected by city appointed authority. All lines and appentures shall be inspected before covering or

backfilling. City shall be given twenty-four (24) hour notice before inspection. The city will make all taps to the main line, except in subdivisions of three (3) or more structures. Taps are chargeable to the owner or developer for materials, labor and equipment.

(4) Contractors. All contractors must be approved by the City of La Vergne. (1994 Code, § 18-419, as replaced by Ord. #2015-07, May 2015)

18-318. Permit fees; lab testing expenses. (1) Permit fees. Annual permit fees shall be paid by each wastewater discharge permit holder to the City of La Vergne. Each significant industrial user as defined by § 18-302 of the City of La Vergne Sewer Use Ordinance shall pay seven hundred fifty dollars ($750.00) annually. All other permit holders shall pay two hundred fifty dollars ($250.00) annually.

(2) Lab testing expenses. All industrial user discharge permit holders shall be required to reimburse the City of La Vergne for all actual lab testing and other expenses relative to monitoring the permit holder's discharge. (1994 Code, § 18-420, as replaced by Ord. #2015-07, May 2015)

TABLE A

All pollutant concentration limits are expressed as milligrams per liter (mg/L), with the exception of pH

Pollutant	24 Hour Flow Proportional* Concentration Limit (mg/L){Daily Maximum}	Comments	Maximum Instantaneous Concentration —Grab Sample Limit (mg/L)
Biochemical Oxygen Demand	300	*1	Not Applicable
Suspended Solids	325	*1	Not Applicable
Oil & Grease	100	*1	Not Applicable
Ammonia	300	*2	Not Applicable
Arsenic	1.0		2.0
Boron	376		752
Cadmium	0.253		0.506
Chromium	3.5		7.0
Copper	5.0		10.0
Iron	380		760
Lead	1.5		3.0
Mercury	0,0055		0.0110
Molybdenum	1.0		2.0
Nickel	5.0		10.0
Selenium	1.1		2.2
Silver	0.065		0.13
Zinc	5.0		10.0
Naphthalene	0.069		0.138
Total Phthalates	3.92	*3	7.84
pH	Not Applicable	*4	5.0 — 10.0
Cyanide	Not Applicable		2.0
Toluene	Not Applicable		0.82
Benzene	Not Applicable		0.27
1,1,1 Trichloroethane	Not Applicable		3.81
Ethylbenzene	Not Applicable		0.53
Carbon Tetrachloride	Not Applicable		0.35
Chloroform	Not Applicable		4.76
Tetrachloroethylene	Not Applicable		2.30
1,2 trans dichloroethylene	Not Applicable		0.069
Methylene chloride	Not Applicable		2.02
Total Phenol	Not Applicable		4.0
Xylene	Not Applicable		0.27
Hydrogen Sulfide	Not Applicable		0.5

Comments:
*Metro Water Services may allow a twenty-four (24) hour timed composite to be collected
*1: Surcharge begins above this concentration limit, and a maximum limit may be established by Metro.
*2: Surcharge begins above 30 mg/L, with a maximum limit of 300 mg/L.
*3: Total Phthalates is the sum of bis(2-ethylhexyl)phthalate, benzyl butyl phthalate, di-n-butyl phthalate and diethyl phthalate
*4: pH is expressed in Standard Units (S.U.). Any time the pH is outside the 5.0 to 10.0 range it is considered a violation

(a) Any discharge of the following compounds or materials is prohibited (*1):

(I.) Polychlorinated Biphenyls (PCBs)

(II.) Herbicides and Pesticides, including, <u>but not limited</u> to:

Aldrin	Heptachlor epoxide
Alpha BHC, Beta BHC, Delta BHC, or Gamma BHC*	Hexachlorocyclo-hexane
Chlordane	Hexachlorocyclopentadiene
Demeton	Lindane
Dieldrin	Methoxychlor
Endosulfan I	Mirex
Endosulfan II	Tetrachlorodiphenylethane (TDE)
Endosulfan sulfate	Toxaphene
Endrin	Parathion
Endrin aldehyde	4,4-DDD
Guthion	4,4-DDE
Heptachlor	4,4-DDT

* BHC: Benzene Hexachloride

(III.) Organic compounds that include:

Acetone	Phenanthrene
Dioxin (TCDD)	2-butanone (MEK)
Hexane	4-methyl-2-pentanone (MIBK)

(b.) No Person shall discharge any organic pollutants that result in the presence of toxic gases, vapors, or fumes within a public, or private sewer, or treatment works in a quantity that will cause acute or chronic worker health and safety problems, or danger to the life and health of the public; or will cause

(*1) "Prohibited" means that these compounds shall not be discharged to the POTW. Any wastewater sample that detects these compounds will be considered a violation of the Metro Water Services' Local Limits

TABLE B

Metro Water Services Wastewater Treatment Plant Protection Criteria
Influent Limits for each WWTP are expressed in mg/L

Pollutant	Central WWTP 24 Hour Flow Proportional Composite Sample Limit (mg/L)*	Whites Creek WWTP 24 Hour Flow Proportional Composite Sample Limit (mg/L)*	Dry Creek WWTP 24 Hour Flow Proportional Composite Sample Limit (mg/L)*
Ammonia	34	33	33
Arsenic (As)	0.10	0.10	0.10
Boron (B)	20.0	20.0	20.0
Cadmium (Cd)	0.015	0.015	0.015
Chromium, Total (Cr)	1.0	0.167	0.191
Copper (Cu)	0.32	0.325	0.49
Iron (Fe)	20.0	20.0	20.0
Lead (Pb)	0.153	0.10	0.151
Mercury (Hg)	0.0010	0.0010	0.0005
Molybdenum (Mo)	1.57	0.046	0.382
Nickel (Ni)	0.35	0.155	0.35
Selenium (Se)	1.19	0.037	0.342
Silver (Ag)	0.015	0.008	0.008
Zinc (Zn)	0.50	0.48	0.50
Naphthalene	0.005	0.005	0.005
Total phthalates *1	0.155	0.219	0.563

Pollutant	Grab Sample-Instantaneous Maximum Concentration Limit (mg/L)	Grab Sample-Instantaneous Maximum Concentration Limit (mg/L)	Grab Sample-Instantaneous Maximum Concentration Limit (mg/L)
Cyanide	0.084	0.275	0.422
Toluene	0.036	0.063	0.121
Benzene	0.015	0.015	0.015
1,1,1 Trichoroethane	0.200	0.200	0.200
Ethylbenzene	0.029	0.029	0.029
Carbon Tetrachloride	0.021	0.039	0.019
Chloroform	0.258	0.258	0.258
Tetrachloroethylene	0.125	0.125	0.125
Trichloroethylene	0.091	0.091	0.091
1,2 trans dichloroethylene	0.005	0.005	0.005
Methylene chloride	0.132	0.132	0.132

Total Phenol	0.25	0.222	0.097
Xylene	0.015	0.015	0.015
Hydrogen sulfide	0.5	0.5	0.5

*:Twenty-four (24) hour time composite samples may be collected

*1: Total Phthalates in the sum of bis(2-ethylhexyl)phthalate, benzyl butyl phthalate, di-n-butyl phthalate, and diethyl phthalate

CHAPTER 4

WATER AND SEWER RATES AND FEES

SECTION

18-401. Usage charges.
18-402. Privilege tapping fees.
18-403. Tapping fees for outside of city limits and others not listed.
18-404. Fees for private fire hydrants and sprinklers.
18-405. Utility construction inspection fee.
18-406. Service connect fee.
18-407. Extraneous flow fee.
18-408. Plans review fee.
18-409. Televising, testing and sealing equipment.
18-410. Special assessment zone fees.
18-411. Schedule of other fees and charges.

18-401. Usage charges. The established water and sewer rates for customers served by the City of La Vergne municipal water system are as follows:

(1) Residential water customers.

Gallons per Month	Rate	
First 2,000	$ 14.21	(minimum)
Over 2,000	$ 3.67	per thousand gallons

(2) Commercial water customers.

Gallons per Month	Rate	
First 2,000	$ 18.39	(minimum)
Over 2,000	$ 4.18	per thousand gallons

(3) Industrial water customers.

Gallons per Month	Rate	
First 2,000	$ 334.38	(minimum)
Over 2,000	$ 5.59	per thousand gallons

(4) Residential sewer customers. Sewer rates shall be based on actual water meter readings.

Gallons per Month	Rate	
First 2,000	$ 22.43	(minimum)
Over 2,000	$ 5.81	per thousand gallons

(5) Commercial sewer customers. Sewer rates shall be based on actual water meter readings.

Gallons per Month	Rate	
First 2,000	$ 29.02	(minimum)
Over 2,000	$ 6.59	per thousand gallons

(6) Industrial sewer customers. Sewer rates shall be based on actual water meter readings.

Gallons per Month	Rate	
First 2,000	$ 527.74	(minimum)
Over 2,000	$ 7.36	per thousand gallons

(1994 Code, § 18-501, as replaced by Ord. #2011-06, May 2011, amended by Ord. #2015-12, June 2015, and replaced by Ord. #2017-11, June 2017 ***Ch3_9-3-19,*** and Ord. #2018-18, July 2018 ***Ch3_9-3-19***)

18-402. Privilege tapping fees. The following rates were approved by ordinance #97-23 which became effective August 1, 1997.

(1) Residential. Charges are for a standard ¾ inch connection. Any larger sizes are charged in accordance to the Standard Reference Chart. Water- $500.00; Sewer - $1,850.00.

(2) Apartment complex. Charges are per unit/office. Water - $500.00; Sewer - $1,850.00. (Note: Individual metering is not permitted.)

(3) Warehouse. Water - $0.11 per sq. ft. under roof; Sewer - $0.22 per sq. ft. under roof.

(4) Industrial/manufacturing (other than warehouse). Water - $0.11 per sq. ft. under roof; Sewer - $0.22 per sq. ft. under roof.

(5) Motel, hotel, campground. Water - $575.00 per unit; Sewer- $800.00 per unit.

(6) Restaurants. Water - standard reference chart; Sewer - $75.00 per seat, plus $50.00 per car space for drive-in service.

(7) Self-service laundries. Water - standard reference chart; Sewer - $750.00 per unit for first three washing or cleaning units or fraction thereof, $200.00 per unit thereafter.

(8) Service station. Water - standard reference chart; Sewer $400.00 per pump (Minimum of $1,200.00).

(9) Theaters. Water - standard reference chart; Sewer - $10.00 per seat (Minimum of $500.00)

(10) Free standing commercial. Water - standard reference chart; Sewer - $500.00 plus $35.00 for each employee.

(11) Shopping center, grocery stores. Water - standard reference chart; Sewer - $200.00 per 1,000 sq. ft. total floor area under roof.

(12) Schools. Water - standard reference chart; Sewer - $40.00 per student, ultimate enrollment.

(13) Car wash (self service only). Water - standard reference chart; Sewer - $1,000.00 minimum up to four bays, $200.00 for each bay over four.

(14) Dentist, physicians office. Water - standard reference chart; Sewer - $200.00 per 200 sq. ft. total floor area under roof or fraction thereof.

(15) Office buildings. Water - standard reference chart; Sewer - $75.00 per 200 sq. ft. total floor area under roof or fraction thereof.

(16) Medical center without beds. Water - standard reference chart; Sewer - $100.00 per 200 sq. ft. total floor area under roof or fraction thereof.

(17) Medical center with beds. Water - standard reference chart; Sewer- $350.00 per bed.

(18) Nursing home. Water - standard reference chart; Sewer - $250.00 per bed.

(19) Church. Water - standard reference chart; Sewer - $200.00 per 1,000 sq. ft. total floor area under roof or fraction thereof.

Standard Reference Chart - Tapping Privilege Fees

Water

Meter Size	Tapping Fee	Meter Size	Tapping Fee
¾"	$500.00	4"	$3,400.00
1"	$1,200.00	6"	$4,200.00
1½"	$1,400.00	8"	$5,000.00
2"	$1,800.00	10"	$5,800.00
3"	$2,200.00		

Sewer

Water Meter Size	Sewer Tapping Fee	Water Meter Size	Sewer Tapping Fee
¾"	$1,850.00	3"	$3,600.00
1"	$1,900.00	4"	$4,400.00
1½"	$2,400.00	6"	$6,400.00
2"	$2,900.00	8"	$8,400.00

The minimum tapping privilege fee for each residential unit of a single or multifamily structure which cannot be served from an existing public road right-of-way or utility easement shall be five hundred dollars ($500.00) per residential unit for water service and one thousand eight hundred fifty dollars ($1,850.00) per residential unit for sewer service only if the purchaser of the tapping privilege installs at no cost to the city all necessary extensions to the city's system in newly dedicated public road right-of-way or utility easements; pays the city ten percent (10%) of the fair market cost of said extensions; transfers to the city the title to said extensions at no cost to the city; and agrees to immediately repair or cause to be repaired at no cost to the city all breaks, leaks, or defects of any type whatsoever arising from any cause whatsoever occurring within one (1) year from the date such extensions are accepted in writing by the city. (1994 Code, § 18-502)

18-403. Tapping fees for outside of city limits and others not listed. The tapping privilege fee(s) for all uses not specified and for areas outside the La Vergne city limits will be determined on a case-by-case basis. (1994 Code, § 18-503)

18-404. Fees for private fire hydrants and sprinklers. (1) The tapping privilege fee for connection of private fire protection lines shall be one thousand dollars ($1,000.00) per inch diameter of connection to the city's lines.

(2) The minimum bill for private fire hydrants and sprinklers shall be at the rate of one hundred dollars ($100.00) per year per fire hydrant, and fifty cents ($0.50) per year per sprinkler head. Deluge systems will require special consideration. (1994 Code, § 18-504)

18-405. Utility construction inspection fee. All utility construction must be inspected by an authorized representative of the city. The cost for inspection of service lines is twenty-five dollars ($25.00). (1994 Code, § 18-505)

18-406. **Service connect fee**. A non-refundable service connect fee shall be paid by each customer to initiate water service. A residential customer who initiates a new connection shall pay a non-refundable service connect fee of fifty dollars ($50.00). All subsequent residential customers at the same location shall pay a non-refundable service connect fee of fifty dollars ($50.00). A commercial or industrial customer who initiates a new connection shall pay a non-refundable service connect fee of seventy-five dollars ($75.00). All subsequent commercial or industrial customers at the same location shall pay a non-refundable service connect fee of seventy-five dollars ($75.00).

In the event service is disconnected for nonpayment, a twenty-five dollar ($25.00) re-connect fee will be required for reconnection during regular hours and a fifty dollar ($50.00) re-connect fee will be required for reconnection between the hours of 4:30 P.M. and 10:00 P.M. Requests for reconnection made after 10:00 P.M. will not be considered until after 8:00 A.M. the next business day. (Ord. #2007-27, Sept. 2007, as amended by Ord. #2008-18, Dec. 2008)

18-407. **Extraneous flow fee**. The extraneous flow fee will be determined on a case-by-case basis. (1994 Code, § 18-507)

18-408. **Plans review fee**. Upon submission of the plans for review, the developer must pay a fee of five hundred dollars ($500.00). (1994 Code, § 18-508)

18-409. **Televising, testing and sealing equipment**. To repair defective joints by the use of the TV, test and seal equipment that is performed in developments not accepted by the city or developments under the one (1) year warranty period, the following fees are to be charged to the developer of said developments:

(1) Mobilization - One hundred dollars ($100.00) per phase.

(2) Base joint repair fee (to cover labor, fuel, depreciation, and related costs) - fifty dollars ($50.00) per joint.

(3) Grout per repair - (Cost will vary depending on the amount of chemical used for repair.) (1994 Code, § 18-509)

18-410. **Special assessment zone fees**. Applicable to any water and wastewater tap, line extension, or access fee where the board of mayor and aldermen have determined it is necessary to increase water or sewer tap fees or to charge an extension or access fee to recover expenditures of the city or where the board of mayor and aldermen have determined it necessary to extend mains to serve property outside the present service area. These fees shall be levied on an individual project basis and shall be passed by ordinance by the board of mayor and aldermen. (1994 Code, § 18-510)

18-411. <u>Schedule of other fees and charges</u>. (1) Past due bills see title 18, chapter 1, § 18-108. (Meter reading and billing)

(2) Water meter testing fee. $50.00.

(3) Water meter disconnect fee. (a) No charge for normal disconnects.

(b) Disconnect fee for non-payment or returned checks. $25.00.

(4) Water meter re-connect fee. $25.00 during regular hours, $50.00 between the hours of 4:30 P.M. and 10:00 P.M.

(5) Returned checks for having insufficient funds. $25.00.

(6) Request for availability of water/sewer. $100.00 for each development.

(7) Utility construction inspections. Cost of inspections to be paid within fifteen (15) days of billing by the city.

(8) Water meter lock fee. $50.00.

(9) Meter removal fee for removing lock. $50.00.

(10) Service call fee. $25.00. (Ord. #2007-27, Sept. 2007, as amended by Ord. #2008-18, Dec. 2008)

TITLE 19

ELECTRICITY AND GAS

RESERVED FOR FUTURE USE

TITLE 20

MISCELLANEOUS

CHAPTER

1. ALARM SYSTEMS.
2. PARKS AND RECREATION.
3. LOCAL GOVERNMENT STANDARDS.
4. PUBLIC RECORDS.
5. DENIAL AND REVOCATION OF CITY ISSUED PERMITS FOR NON-PAYMENT OF CITY FEES AND TAXES.

CHAPTER 1

ALARM SYSTEMS

SECTION

20-101. Purpose and intent.
20-102. Definitions.
20-103. Permit required.
20-104. Permit application.
20-105. Updating alarm user application.
20-106. Transfer of alarm user permit prohibited.
20-107. Audible alarm system requirements.
20-108. False alarms prohibited.
20-109. False alarms-fines-notifications.
20-110. Permit revocation.
20-111. Testing equipment.
20-112. No liability of city.
20-113. Severability.

20-101. Purpose and intent. The ordinance codified in this chapter is adopted for the purpose of regulating and permitting alarm systems to which the police are expected to respond in an effort to reduce the number of false alarms. (1994 Code, § 20-201)

20-102. Definitions. (1) "Alarm company" means the business by any person, firm, partnership, corporation, association, organization, company, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed in or on any building, structure or facility.

(2) "Alarm agent" means any person employed by, working for, representing, or subcontracted by an alarm company.

(3) "Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of any actual or attempted burglary or robbery to which the police are expected to respond.

(4) "Alarm user" means a person(s), firm, partnership, corporation, association, organization, company, or other entity in control of a premise where an alarm system located.

(5) "Audible alarm" means an alarm system or device that generates an audible sound.

(6) "Calendar year" means a 12-month period beginning January 1st and ending December 31st every year.

(7) "Central alarm station" means a system in which the operation of electrical protection circuits and devices are signaled automatically to, recorded at, or maintained and serviced from a place of business having trained alarm operators in attendance at all times.

(8) "Chief of police" means the City of La Vergne Chief of Police or his designee.

(9) "City" means the City of La Vergne, Tennessee.

(10) "False alarm" means activation or transmission of any alarm signal caused by human error, mechanical or electronic malfunction, negligence of the alarm user or alarm user's employee, whether or not the exact cause of the alarm activation is determined, or any other activation or transmission of any alarm signal where no actual or attempted burglary or robbery exists. Severe weather, power outages, transmission line malfunction, acts of God, malicious acts of persons not under the control of the alarm user, or any other cause clearly beyond the control of the alarm user will be considered in determining if an alarm activation was false and whether or not any occurrence, fine, warning or other punitive action will be taken against the alarm user as provided for by this chapter.

(11) "Notice" means written notice given by personal service upon the addressee, or given by the United States Postal Office, postage paid, to the addressee's last known mailing address.

(12) "Permittee" means any person, firm, partnership, corporation, association, organization, company, or other entity issued an alarm permit by the city.

(13) "Person" means a natural person, or a firm, partnership, corporation, association, organization, company, or other entity.

(14) "Protected premises" means any building, structure, or facility where an alarm system is installed to signal the occurrence of any actual or attempted burglary or robbery to which the police are expected to respond. (1994 Code, § 20-202)

20-103. <u>Permit required</u>. (1) It is unlawful for any person, firm, partnership, corporation or other legal entity to use, own or lease an alarm

system or to be in control of a premises wherein an alarm system is operated or maintained without having first obtained a permit as provided in this chapter.

(2) It is unlawful for any person, firm, partnership, corporation or other legal entity to use, own or lease an alarm system or to be in control of a premises wherein an alarm system is operated or maintained when a permit therefore has been revoked.

(3) A permit must be obtained for each separately addressed operating location.

(4) All permits issued are valid for one calendar year unless revoked. There will be a one time fee of ten dollars ($10.00) for the initial permit. If new ownership occurs at any time, a new permit must be obtained. (1994 Code, § 20-203)

20-104. <u>Permit application</u>. (1) Each applicant for a permit to maintain an alarm system shall file a written application with the police department stating:

(a) The full legal name, address, and telephone number of the applicant.

(b) The name, address and telephone number of the premises where the alarm system is located.

(c) The type of alarm system at the protected premises.

(d) A list of three persons, including their addresses and telephone numbers, who can be contacted and will respond to the premises in the event of an emergency or to reset or reactivate the alarm system, or who could contact the alarm user if the alarm user is not at the protected premises.

(e) The names, address and telephone number of the person or company that installed the alarm system.

(f) The name, address and telephone number of the person or company that is responsible for the maintenance and repair of the alarm system, if applicable.

(2) Incomplete applications shall be returned to the applicant. A permit will not be issued until the completed application is received and approval for the permit has been granted by the chief of police.

(3) The police department shall be responsible for processing and issuing alarm user permits.

(4) The initial permit fee will be ten dollars ($10.00) per owner/alarm system.

(5) An alarm user found to not have obtained an alarm permit after January 1, 1998 will have thirty (30) days from the date of notice to obtain such permit. If after this thirty (30) day notice, a permit is not obtained, the user will be assessed a twenty-five dollar ($25.00) fine in addition to the ten dollar ($10.00) fee described in section 20-204(4). (1994 Code, § 20-204)

20-105. <u>Updating alarm user application</u>. It is unlawful for any alarm user to fail or refuse to amend its alarm user permit application within 14 days after any of the information required and contained therein becomes outdated or inaccurate. Permit may be subject to revocation if information is not updated. (1994 Code, § 20-205)

20-106. <u>Transfer of alarm user permit prohibited</u>. An alarm user permit cannot be transferred to another premises or to another person. (1994 Code, § 20-206)

20-107. <u>Audible alarm system requirements</u>. An alarm system that emits an audible signal that may be heard by persons outside the protected building, structure or facility shall conform to the following requirements:

(1) Audible alarm systems shall automatically discontinue emitting an audible sound within 30 minutes after it is activated.

(2) With respect to systems in existence prior to the adoption of this ordinance, the owner or operator thereof shall have 30 days from the effective date of this ordinance to effect the necessary modifications to comply with the foregoing requirements. (1994 Code, § 20-207)

20-108. <u>False alarms prohibited</u>. It is unlawful for any person to knowingly activate an alarm system for the purpose of summoning the police department except if such person knows or suspects that there is an actual or attempted burglary, robbery, or any other threatened offense against person or property. (1994 Code, § 20-208)

20-109. <u>False alarms-fines-notifications</u>. (1) Any alarm user permittee who has more than two false alarms within a calendar year at a single protected location will be assessed fines according to the following fine schedule:

3rd or more false alarms $25.00 fine per false alarm.

(2) All fines must be paid to the police department within thirty (30) days from the date of the invoice requesting payment of the fine(s).

(3) The chief of police shall notify the alarm user, in writing, of each instance wherein the police department has recorded a false alarm. The alarm user shall have the opportunity within fourteen (14) days from the date of mailing or personal delivery to submit a report or meet with the chief of police for the purpose of showing cause as to whether circumstances exist to warrant voiding the false alarm recordation. The chief of police shall review the alarm user's report and/or meet with the alarm user and issue a written finding to the alarm user as to whether or not the false alarm record will be voided. The finding of the chief of police shall be final. (1994 Code, § 20-209)

20-110. <u>Permit revocation</u>. (1) Any alarm user permittee who fails to pay any fine or charges provided for in this chapter within thirty (30) days from

the date of the invoice requesting payment of same shall have the subject alarm user permit revoked. Any such alarm user permit shall not be reinstated until all unpaid fines are paid in full.

(2) Upon revocation of alarm user's permit, the alarm user will be required to disconnect or otherwise terminate alarm service until the fines are paid and alarm permit is reinstated. There will be no permit reinstatement fee upon payment of fine(s).

(3) An alarm user whose permit has been revoked and has a subsequent alarm activation will be in violation of this ordinance and will be subject to prosecution through the City Court of La Vergne.

(4) If the alarm user's permit is reinstated pursuant to this section, and the police department responds to a subsequent false alarm activation in the same calendar year at the protected premises, the alarm user shall be assessed a fine in the amount of $25.00 for this and each subsequent false alarm activation through the remainder of the calendar year. (1994 Code, § 20-210)

20-111. <u>Testing equipment</u>. No person shall conduct, or cause to be conducted, any test or demonstration of any alarm system that is relayed to the police department by the alarm company as a bona fide alarm. (1994 Code, § 20-211)

20-112. <u>No liability of city</u>. The city assumes no liability for any defects in the operation of any alarm system or signal line system, for any failure or neglect of any person associated with the installation, operation or maintenance of any alarm system, for any failure or neglect of any alarm user, for the transmission or receipt of alarm signals or any failure or neglect to respond upon receipt of an alarm from any source. In the event that the city finds it necessary to revoke an alarm user permit or to otherwise provide for the disconnection of any alarm system, the city shall have no liability for such action. No special duty other than that owed to the general public shall be created by virtue of this chapter or by virtue of the issuance of an alarm system permit, the direct connection of an alarm system with the police department or as a result of the transmission to or receipt of alarm signals by the police department. (1994 Code, § 20-212)

20-113. <u>Severability</u>. If any provision, clause, sentence, paragraph, section, or part of this chapter or application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter in the application of such provision to other persons or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstance involved. It is hereby declared to

be the legislative intent of the city council that this chapter would have been adopted had such unconstitutional or invalid provisions, clause, sentence, paragraph, section or part thereof not been included. (1994 Code, § 20-213)

CHAPTER 2

PARKS AND RECREATION

SECTION

20-201. Definitions.
20-202. Construction and scope.
20-203. Prohibited acts.
20-204. Regulated acts-permits.
20-205. Penalties
20-206. Vehicles and traffic.
20-207. Intervention.
20-208. Parks and recreation user fees.
20-209. Deleted.

20-201. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following terms shall respectively mean and include each of the meanings set forth:

(1) "Board." Board of mayor and aldermen.

(2) "City." City of La Vergne/city government.

(3) "Committee." Parks and recreation advisory committee.

(4) "Department." Parks and recreation department.

(5) "Director." Director of parks and recreation department.

(6) "Foot path or trail." Any path or trail maintained for pedestrians.

(7) "Open space." Any open grassy area at least one (1) acre in size or that is suitable for said activity.

(8) "Owner." Any person owning, operating or having the use or control of a vehicle animal or other property under a lease or otherwise.

(9) "Park." Unless specifically limited, such term shall be deemed to include all parks, facilities, implements, parkways, playgrounds, athletic fields, tennis courts, golf courses, swimming pools, beaches, and other recreation areas, museums, zoological and botanical gardens, places, squares, circles, spurs, open places, boulevards, roads, waters and lands under water, flora and fauna, and also entrances and approaches thereto, docks and piers, channels and bridges; in, leading to or connecting such parks or parts thereof under the supervision of the department and control of the board and such other rights and appurtenances as the board shall utilize, whether the same is now or shall hereafter be owned or acquired by the city government in fee or otherwise, including all land under and space above the surface of the ground.

(10) "Permits." Any written authorization issued by or under the authority of the department for a specified park privilege permitting the performance of a specified act in the park.

(11) "Playground area" Any area maintained or designated as a playground, including all territory under the supervision of the department.

(12) "Police officer." Any member of the Police Department of the City of La Vergne, and any other city employee who is a special policeman of the city and assigned duties within the park.

(13) "Rules and regulations." Any rules and regulations established by the board, committee or department will be filed with the city recorder.

(14) "Safety zone." Any space within any park so designated by appropriate signs.

(15) "Unnecessary stopping." Bringing a vehicle to a complete stop on a parkway, or a road in a park other than a parking space, or other than in conformity with traffic regulations, or other than because of any emergency. (1994 Code, § 20-301, modified)

20-202. Construction and scope. (1) Construction. In the interpretation of this chapter affecting parks, its provisions shall be constructed as follows:

(a) Any requirement or provisions of these rules and regulations relating to any act shall respectively extend to and include the causing, procuring, aiding, or abetting, directly or indirectly, of such act, or the permitting or the allowing of any minor in the custody of any persons, doing any act prohibited by any provision thereof.

(b) No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the city or others performing line of duty work within the park complex.

(c) Any act otherwise prohibited by this chapter, provided it is not otherwise prohibited by law, shall be lawful if performed under, by virtue of and strictly in compliance with the provisions of a permit and to the extent authorized thereby.

(d) This chapter is in addition to and supplements state and federal laws and ordinances.

(e) Where any park area is designated by the board so as to prohibit or permit certain activities, such designation shall be posted conspicuously.

(2) Scope. This chapter affecting parks shall be effective throughout the city as outlined in the charter. All areas designated as parks will operate under the supervision of the department as established by the board. (1994 Code, § 20-302, modified)

20-203. Prohibited acts. It shall be unlawful to:

(1) Distribute, display, or construct any material for advertising purposes (except for league or city affiliated signs approved by the director).

(2) Solicit contributions for any purpose or do any vending (without permission of the director).

(3) Camp or erect or maintain a tent or shelter without a permit or written permission from the director.

(4) Disobey the lawful and reasonable order of a park employee or police officer in the discharge of his duties or disobey the notices, prohibitions, instructions, or directions on any park sign.

(5) Use threatening, abusive, or insulting language.

(6) Do any obscene or indecent act.

(7) Throw, cast, or propel stones or other missiles.

(8) Interfere with, encumber, obstruct, or render dangerous any part of the park.

(9) Climb, stand, lay, skateboard upon any wall, fence, tree, shelter, monument, or other structure not meant for such.

(10) Do any act tending to or amounting to a breach of peace.

(11) Enter or leave any park facility except at established entrance ways or exits or at established times.

(12) Use or gain admittance to or attempt to use or gain admittance to the facilities in the park for the use of which a charge is made without paying the charge.

(13) Bring in, distribute, have possession of, or partake of any alcoholic beverage, drug or illegal substance.

(14) Engage in, instigate, or encourage a contention fight.

(15) Do, aid, abet, or assist in doing any act injurious to any person, animal, or property within the park.

(16) Bring into or have in his/her possession in any park any weapons, firearms, slingshots, fireworks, explosives, or dangerous/noxious gases.

(17) Play any games of chance, participate in any gambling or possess any devices used for gambling.

(18) Take into, leave in or throw, or discharge into or on any park any rubbish of any sort except in receptacles provided for refuse.

(19) Spit upon any walk, floor, building, or structure.

(20) Throw, cast, drop, or discharge into or leave in the waters in or adjacent to any park any substance which may result in the pollution of such waters.

(21) Destroy, injure, disturb, or remove any growing thing, including but not limited to any plant, flower, shrub, or tree.

(22) Injure, deface, displace, remove, fill in, raise, destroy, or tamper with any drive, walk, bridge, wall, fence, shelter, seat, monument, building, post, sign, railing, platform, telephone, recreation equipment, pipe, basin, or any property, real or personal, owned by the City of La Vergne or under supervision or control by the City of La Vergne.

(23) Park or drive in any areas other than designated parking areas.

(24) Create inappropriate loud noise or music that may disrupt the leisure atmosphere within the parks without a permit or written permission from the director.

(25) Violate any other city, state, or federal law or ordinance.

(26) No person shall voluntarily bring, land or cause to descend or alight within or upon any park, any airplane, flying machine, balloon, or parachute, other than one caused by mechanical or structural failure without a permit or written permission from the director.

(27) Smoke in prohibited areas.

(28) Skate or skateboard in prohibited areas.

(29) Allow dogs off leash except in designated areas. (1994 Code, § 20-303, modified)

20-204. Regulated acts-permits. League and organizational facilities use. The City of La Vergne reserves the right to charge fees for any damage incurred in the usage of any property of the City of La Vergne. All leagues and other organizations are required to carry insurance in an amount of no less than one million dollars ($1,000,000.00) dollars with said city named as an additional insured. Any party or organization using city facilities is required to enter into a user agreement. Such agreement shall include procedures for use, disclosure of financial information, maintenance regulations and other information as deemed necessary by the city.

(1) Exhibitions, parades, racing, etc. No person shall erect any structure, stand or platform for the purpose of entertainment in any park, except in accordance with the rules and regulations and written permission of the department.

(2) Meetings, etc. (a) No person shall erect any structure, stand or platform, hold any meetings, perform any ceremony, make a speech, address or oration, or exhibit or distribute any signs, placard, notice, declaration or appeal of any kind or description, in any park except by permit issued by the director.

(b) Upon application, such permit will be issued unless:

(i) The use for which the permit is sought is of a private or commercial nature; or

(ii) The location selected is not suitable; or

(iii) The date and time requested has previously been allocated by permit, or would obstruct and interfere substantially with park use and enjoyment by the public.

(c) Whenever a permit is denied by reason of paragraphs (ii) or (iii) of subsection (b) above, alternative suitable locations and dates shall be offered to the applicant, if available.

(3) Picnics and outings. The parks and recreation department is authorized to adopt, promulgate and enforce rules and regulations governing picnics or outings consistent with the proper use and protection of park property. Such authority shall include, but not be limited to regulating the time, place and manner where picnics or outings may be held and may include the issuance of permits thereof.

(4) Peddling, sales, photographs, etc. No person shall, in any park or to any person in any park, exhibit, sell or offer for sale, hire, lease or let out any object or merchandise, or anything whatsoever, whether corporeal or incorporeal, tickets for entertainments or other affairs of any description included, except under a permit issued by the department. For advertising, commercial or publicity purposes, no person shall take moving pictures or photographs within the limits of any park, or buy or sell or publish the negatives thereof or the prints therefrom or exhibit such negative or prints in public, or use pictures or photographs of any park or park structure, or perform any personal service for hire in any park, except under a permit or merchandise in quantities, packages or containers customarily associated with peddling shall be deemed to be prima facie evidence of exhibiting or offering for sale.

(5) Protection of animals. No person shall, within any park, molest, kill, wound, trap, hunt, take, chase, shoot or throw missiles at, remove or have in his possession, any feral animal, reptile, bird, bird's nest or squirrel's nest, or remove the young of any such animal or the eggs or young of any such bird, etc., or knowingly buy, receive, have in his possession, sell or give away any such animal, reptile, bird or egg so killed or taken.

(6) Fires, lighted cigars, etc. No person shall kindle, build, maintain or use fire except in fire places provided or in self-supporting barbecue grills or stoves in designated picnic areas or under special permit.

Any fire shall be continuously under the care and direction of a competent person over eighteen years of age from the time it is kindled until it is extinguished, and no fire shall be built within ten feet of any tree or building, or beneath the branches of any trees or in any underbrush. No person shall throw away or discard any lighted match, cigar or cigarettes in any park or park street. Cigar, cigarettes and matches shall be extinguished and deposited in a suitable container provided for the reception thereof.

(7) Sun bathing and bathing. (a) No person shall sun bathe, bathe, wade or swim in or on any area under the supervision of the department and control of the board except at such times and in such places as the department may designate or maintain as bathing areas. As set forth below, nudity in any area under the supervision of the department is strictly prohibited except for those areas designated for persons to change their clothing.

(b) Notwithstanding any other ordinance, resolution or policy adopted by the City of La Vergne with regard to proper attire, nudity while on city property, except as to the changing of clothes as described above, is strictly prohibited. Nudity is defined as the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

(8) Skating and coasting. (a) No person shall use roller skates in any park except at such times and upon such places as may be designated or maintained therefor, or skate, sled, walk or go upon any ice or snowshoe or ski or tow persons on skis, sleds or skates, except at such times and upon such places as may be designated or maintained therefor.

(b) No person shall, in any park, coast with handsleds, bobs, carts or other vehicles, or wheels or runners, except at such times and upon such places as may be designated or maintained therefor.

(9) Toy aviation, model boating and model automobiling. No person shall in any park engage in toy aviation, model boating or model automobiling, except at places designated or maintained therefor.

(10) Games. No person shall in any park throw, cast, catch, kick or strike any baseball, golf ball, football, basketball, bowling ball, croquet ball, bean bag or other objects, nor shall any person engage in any sport, game or competition, in places other than those designated for that activity or in open spaces. No games will be played in places where said games are specifically prohibited.

(11) Dogs and other animals at large. No person owning or being custodian or having control of any animal shall cause or permit such animal to run at large in the park. Any person owning or being custodian or having control of any animal shall pick up and properly dispose of animal waste. A dog may be brought into a park; provided, that such dog shall be continuously restrained by a leash not exceeding six feet in length; except, that no dog or other animal shall be permitted in buildings, playgrounds, bathing and other ares designated by signs as prohibited areas. Any animal found at large may be seized and impounded or disposed of pursuant to the laws or ordinances of the state and the city government in relation to the disposal of stray animals on highways or other public places. No person having the care or charge of any dog or other animal shall permit such animal to enter or drink the water of any drinking fountain, lake or pond in any park except at places designated or maintained therefor.

(12) Horses. No person shall use, lead, ride or drive a horse or other beast of burden in any park, except on designated bridle paths or along routes customarily used for access to and from bridle paths, unless mounted patrol otherwise authorized by the director. Driving or riding on a bridle path in a reckless manner is prohibited. Horses shall be well broken and constantly held in such control that they may easily or quickly be turned or stopped. No person shall permit any horse owned by him/her, or in his care or custody, to be unbridled or left unattended in any unclosed space without being securely fastened.

(13) Hours. No person shall under any circumstances enter for the purpose of remaining therein or remain in any park between the hours of 11:00 P.M. and 6:00 A.M. without general or special permission from the department.

(14) Construction work and projects. (a) No person or agency shall perform construction work or any kind of work incidental thereto in any park without a permit from the department, or unless under contract from the board.

(b) No person shall erect or maintain projections on, over or under any park without first obtaining a permit therefor from the board, and upon such terms and conditions, without making such compensation to the city government as may be determined by the aldermen and the board. (1994 Code, § 20-304, modified)

20-205. Penalties. It shall be unlawful to violate any provisions of this chapter. Any violation shall be fined under the general penalty clause of this code. (1994 Code, § 20-305)

20-206. Vehicles and traffic. (1) Traffic control. All persons shall at all times heed and comply with traffic directions of the police officers or other designated parking official indicating by gesture or otherwise in using parks, and shall further comply with directions on traffic signs along the routes in the park. Directions on such traffic signs may be disregarded only on an order of a police officer or other designated parking official. In overflow parking situations, all persons shall comply with the directions of a designated parking official.

(2) Speed limits. No person shall drive a vehicle on a street within any park at a speed greater than is reasonable and prudent under the conditions then existing. Where no special hazards exist, the maximum speed limits in all parks shall be fifteen miles per hour, unless otherwise posted. When official signs are posted indicating the speed limit in certain areas, it shall be unlawful for any person to drive or operate a vehicle in such area in excess of the legal speed limit as posted.

(3) Restrictions on vehicles. (a) Commercial vehicles. Vehicles constructed or adapted for or engaged in the carrying of merchandise, including samples of merchandise, trucks and trailers are prohibited from using any park except where necessary to make deliveries in such park. Whenever service roads adjoin the main roadway to a park, such vehicles shall use the service roads set apart for such use. In all cases, such vehicles shall enter such parks from the nearest street intersection or entrance, in the direction of traffic, and leave by the nearest intersecting street or exit in the direction of traffic, except when given permission by the director.

(b) Vehicles with signs, etc. Vehicles having any name, insignia or sign painted or displayed thereon for businesses or advertising purposes are prohibited in parks, except as provided in subsection (a) of this section. For purposes of identification, name and address only of the owner of the vehicles on the sides thereof in letters not more than two

inches in height shall not be construed as being displayed for business or advertising purposes.

(c) Carriers of offensive refuse or heavy materials. No garbage, ashes, manure, or other offensive materials shall be carried through any park. When such refuse is to be removed from premises fronting on any park, the vehicle collecting the same shall leave the park as soon as the collection has been accomplished, and by the shortest available route.

(4) Soliciting passengers. No person shall solicit passengers for any automobile, coach, taxi, omnibus or other vehicle in any park, except in such areas as may be designated therefor, and only to the extent specifically designated. All chauffeurs, drivers and attendants of such vehicles shall remain in close proximity to their vehicles while the same are unloading, awaiting or loading passengers. In no case shall cruising or soliciting of passengers in a park be permitted.

(5) Hitchhiking. No person shall in any park or park street, attempt to stop or stop, by any visible or audible sign or signal, any vehicle for the purpose of soliciting a ride, except in case of emergency.

(6) Reckless driving. No person shall, in any park, operate of drive or propel, and no owner thereof shall cause or permit to be operated, driven or propelled, any vehicle recklessly or negligently or at a speed or in such manner as to endanger or injure persons or property.

(7) Restricted areas. No person in any park shall drive or operate a vehicle within or upon a safety zone, walking trail, bridle path or any part of any park designated or customarily used for such purposes except in special circumstances or having permission from the department. No person shall ride a bicycle, or scooter in any park, except in places designated for such riding, but persons may push such machines in single file to and from such places, except on beaches.

(8) Driving instructions. Instructions in operating automobiles or motorcycles is prohibited in parks at all times. Persons who may not lawfully operate a vehicle within the state or city shall not drive or operate a vehicle within any park.

(9) Obstructing traffic. No person shall cause or permit any vehicle to obstruct traffic in any park, or to stop such vehicle except at those places specifically designated or maintained for the purpose of stopping or parking, except in case of emergency.

(10) Parking. No person, in stopping or parking a vehicle in any park area, shall:

(a) Disobey a lawful and reasonable order of a police officer or designated park official in the discharge of their duties or disobey or disregard the notices, prohibitions, instructions or directions on any park sign, including rules and regulations of museums or zoological or botanical gardens posted on the ground or buildings or such institutions.

(b) Stop or park a vehicle in a park between 6:00 A.M. and 11:00 P.M., except at places designated or maintained therefor.

(c) No over night parking permitted in any park except by permission of the department or extenuating circumstances.

(d) Any vehicle parked or left unattended in any park is at the owners risk and the city is not held responsible or liable for any damages that might occur to said vehicle (i.e.: foul balls, thefts, accidents, etc.)

(11) Towing and projecting articles. (a) No person shall cause or permit a vehicle to be towed by another vehicle in any park; except, that in case of a breakdown, a disabled vehicle may be towed to the nearest exit. Licensed towing operators may enter such park in response to a call from an owner or operator of a disabled vehicle or department employee to remove an unattended vehicle. In all cases, such towing operators shall enter such park from the nearest street intersection or entrance, in the direction of traffic, and leave by the nearest intersecting streets or exit in the direction of the traffic.

(b) No person shall operate or drive in any park a vehicle containing any person or object projecting or hanging outside or on the top thereof; except, that outdoor sports and recreation equipment, including but not limited to skis, ski poles, fishing rods, beach chairs, beach umbrellas, tent poles, and sleds, may be carried on the rear of such vehicle or on a rack designated for that purpose and attached to the top thereof; provided, that in all cases, fastenings shall be secure and substantial and such equipment so carried shall in no case project more than twelve inches above the top or to the rear of such vehicle.

(12) Driving off pavement. (a) No vehicle shall be operated or driven off the improved or paved roadways of any park or pathway unless so directed by a police officer or other designated traffic official.

(b) All staged or disabled vehicles shall be removed from paved roadways in parks so as to prevent obstruction of traffic. If not so removed by the owners or operators, then such vehicles may be removed by the city to the tow-in-lot at the expense of the owners.

(c) No disabled or unattended vehicle shall be permitted to remain in a park for a longer period than twenty-four hours.

(13) Working on vehicles. No person shall in any park, grease, lubricate or make repairs to any vehicle, except those of a minor nature, and then only in case of emergency.

(14) Cleaning vehicles. No person shall in any park wash, wax, vacuum or clean a vehicle in any way except with permission from the director.

(15) Vehicle and traffic law enforcement. No person shall operate a motor vehicle within any park area in violation of the laws of the state of the city government. Persons operating motor vehicles contrary to such laws shall be charged with violating said laws. (1994 Code, § 20-307, modified)

20-207. Intervention. La Vergne Parks and Recreation and the City of La Vergne has the right to intervene in any acts, legal or otherwise, that is not deemed proper. Such persons will be subject to ejection from the premises and/or legal ramifications. (1994 Code, § 20-307)

20-208. Parks and recreation user fees. User fees for this chapter shall be as follows:

(1) League use. (a) Baseball/softball leagues: Eight thousand dollars ($8,000.00) flat fee to cover costs of field maintenance, payable at the end of each season.

(b) Football leagues: Two thousand dollars ($2,000.00) flat fee to cover costs of field maintenance, payable at the end of each season.

(c) In-Line hockey leagues: Five hundred dollars ($500.00) flat fee to cover costs of facility maintenance, payable at the end of each season.

(2) Baseball/softball tournaments: (a) Full weekend: There is a tournament fee of one thousand five hundred dollars ($1,500.00) per complex per weekend. A weekend is considered no longer than Friday, Saturday and Sunday. If a tournament is rained out completely, a refund will be issued. If a tournament completes a full day, no refund will be given. In order to reserve a complex for a tournament, the fees must be paid no later than two (2) weeks prior to the tournament. There will be a three hundred dollar ($300.00) cleaning charge for excessive litter left by tournament participants.

(b) Single day: There is a tournament fee of seven hundred fifty dollars ($750.00) per complex for single day tournaments. If a tournament is rained out completely, a refund will be issued. In order to reserve a complex for a tournament, the fees must be paid no later than two (2) weeks prior to the tournament. There will be a three hundred dollar ($300.00) cleaning charge for excessive litter left by tournament participants.

(3) Field rental. (a) Baseball/softball fields: one hundred fifty dollars ($150.00) per field, per day.

(b) Football fields: Three hundred dollars ($300.00) per field, per day.

(4) Facility rental. (a) Multi-Purpose Building: 8:00 A.M. to 2:00 P.M. - seventy-five dollars ($75.00); 4:00 P.M. to 10:00 P.M. - seventy-five dollars ($75.00); 8:00 A.M. to 10:00 P.M. - one hundred fifty dollars ($150.00). A two hundred dollar ($200.00) deposit is required. Deposit will be refunded if renter is in compliance with all reservation policies and procedures.

(b) Pavilions: 8:00 A.M. to 2:00 P.M. - Twenty-five dollars ($25.00); 4:00 P.M. to 10:00 P.M. - Twenty-five dollars ($25.00); 8:00 A.M. to 10:00 P.M. - Fifty dollars ($50.00).

(5) Vendor permits. There is an annual parks vendor permit fee of seventy-five dollars ($75.00) to cover the cost of conducting a background check and processing of the application. Parks vendor permits are issued by the department on a per-event basis, however the fee will cover any parks vendor permit applications for up to one (1) year from the initial application. Booth rentals for agriculture vendors or arts and crafts vendors at city sponsored events shall not be required to obtain a park vendor permit. The director shall be allowed to waive park vendor permit fees for city events. (as added by Ord. #2013-06, July 2013, amended by Ord. #2014-24, Dec. 2014, and Ord. #2015-01, Feb. 2015, and replaced by Ord. #2017-25, Jan. 2018 ***Ch3_9-5-19***, Ord. #2018-20, Aug. 2018 ***Ch3_9-5-19***, Ord. #2019-23, July 2019 ***Ch3_9-5-19***, and Ord. #2019-34, Sept. 2019 ***Ch3_9-5-19***)

20-209. Deleted. (as added by Ord. #2018-23, Oct. 2018 ***Ch3_9-5-19***, and deleted by Ord. #2018-28, Jan. 2019 ***Ch3_9-5-19***)

CHAPTER 3

LOCAL GOVERNMENT STANDARDS

SECTION

20-301. Adopted by reference.
20-302. Public works inspector and assistants.
20-303. Powers and duties of the inspector.

20-301. Adopted by reference. The Local Government Public Works standards and specifications dated 1994, and all subsequent amendments thereto, promulgated, approved, and adopted by the University of Tennessee Municipal Technical Advisory Service are hereby adopted. (1994 Code, § 20-401)

20-302. Public works inspector and assistants. To provide for the administration and enforcement of this section, the office of Public Works Inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office shall be appointed or designated by the board of mayor and aldermen. (1994 Code, § 20-402)

20-303. Powers and duties of the inspector. (1) The inspector is authorized and directed to enforce all the provisions of this section and require work to be performed in accordance with plans approved by the planning commission.

(2) The inspector is authorized to issue an order to stop work for any work that is non-compliant, found defective or in such condition as to endanger life or property. In all cases where such action is taken, a notice shall be attached to the work and delivered to the contractor or developer performing the work. The notice shall state that the same is not acceptable, together with the reasons for the action, and it shall be unlawful for any person to remove said notice or proceed with the non-compliant work without authorization by the inspector. (1994 Code, § 20-403)

CHAPTER 4

PUBLIC RECORDS

SECTION

20-401. Public records policy adopted.
20-402. Definitions.
20-403. Requesting access to public records.
20-404. Responding to public records requests.
20-405. Inspection of records.
20-406. Copies of records.
20-407. Fees and charges and procedures for billing and payment.
20-408. Disposition of records.

20-401. Public records policy adopted. (1) Pursuant to Tennessee Code Annotated, § 10-7-503(g), the following Public Records Policy for the City of La Vergne is hereby adopted by the board of mayor and aldermen to provide economical and efficient access to public records as provided under the Tennessee Public Records Act ("TPRA") in Tennessee Code Annotated, § 10-7-501, et seq.

(2) The TPRA provides that all state, county and municipal records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. See Tennessee Code Annotated, § 10-7-503(a)(2)(A). Accordingly, the public records of the City of La Vergne are presumed to be open for inspection unless otherwise provided by law.

(3) Personnel of the City of La Vergne shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the City of La Vergne, shall be protected as provided by current law. Concerns about this policy should be addressed to the public records request coordinator for the City of La Vergne or to the Tennessee Office of Open Records Counsel ("OORC").

(4) This policy is available for inspection and duplication in the office of the city recorder. Additionally, this policy is posted online at www.lavergnetn.gov. This policy shall be reviewed every two (2) years.

(5) This policy shall be applied consistently throughout the various offices, departments, and/or divisions of the City of La Vergne. (Ord. #2009-05, May 2009, as replaced by Ord. #2017-12, June 2017 ***Ch3_9-3-19***)

20-402. Definitions. (1) "Records custodian." The office, official or employee lawfully responsible for the direct custody and care of a public record.

See Tennessee Code Annotated, § 10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.

(2) "Public records." All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency. See Tennessee Code Annotated, § 10-7-503(a)(1)(A).

(3) "Public records request coordinator." The individual, or individuals, designated in § 20-404(1)(c) of this policy who has, or have, the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the TPRA. See Tennessee Code Annotated, § 10-7-503(a)(1)(B). The public records request coordinator may also be a records custodian.

(4) "Requestor." A person seeking access to a public record, whether it is for inspection or duplication. (Ord. #2009-05, May 2009, as amended by Ord. #2013-17, Oct. 2013, and replaced by Ord. #2017-12, June 2017 ***Ch3_9-3-19***)

20-403. Requesting access to public records. (1) Public record requests shall be made to the Public Records Request Coordinator ("PRRC") or his/her designee [or via online submission] in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner.

(2) Requests for inspection only cannot be required to be made in writing. The PRRC should request a mailing [or email] address from the requestor for providing any written communication required under the TPRA.

(3) Requests for inspection may be made orally or in writing using Form A at La Vergne City Hall, located at 5093 Murfreesboro Road, La Vergne, TN 37086 or by phone at 615-287-8611 or electronically at www.lavergnetn.gov.

(4) Requests for copies, or requests for inspection and copies, shall be made in writing using Form A at La Vergne City Hall, located at 5093 Murfreesboro Road, La Vergne, TN 37086 or electronically at www.lavergnetn.gov.

(5) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license (or alternative acceptable form of ID) is required as a condition to inspect or receive copies of public records.

(6) Many records related to the board of mayor and aldermen and various boards and committees are available for inspection and downloading free of charge on the city's website, www.lavergnetn.gov. Agendas, minutes, and copies of enacted resolutions and ordinances are available at this website. No proof of Tennessee citizenship is required to view or obtain copies of documents that are available to the public on the city's website. (Ord. #2009-05, May 2009, as replaced by Ord. #2017-12, June 2017 ***Ch3_9-3-19***)

20-404. <u>Responding to public records requests</u>. (1) <u>Public Record Request Coordinator (PRRC)</u>. (a) The PRRC shall review public record requests and make an initial determination of the following:

(i) If the requestor provided evidence of Tennessee citizenship;

(ii) If the records requested are described with sufficient specificity to identify them; and

(iii) If the City of La Vergne is the custodian of the records.

(b) The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):

(i) Advise the requestor of this policy and the elections made regarding:

(A) Proof of Tennessee citizenship;

(B) Form(s) required for copies;

(C) Fees (and labor threshold and waivers, if applicable); and

(D) Aggregation of multiple or frequent requests.

(ii) If appropriate, deny the request in writing, providing the appropriate ground such as one of the following:

(A) The requestor is not, or has not presented evidence of being, a Tennessee citizen.

(B) The request lacks specificity.

(C) An exemption makes the record not subject to disclosure under the TPRA.

(D) The City of La Vergne is not the custodian of the requested records.

(E) The records do not exist.

(iii) If appropriate, contact the requestor to see if the request can be narrowed.

(iv) Forward the records request to the appropriate records custodian in the City of La Vergne.

(v) If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity if known.

(c) The designated PRRC is: (i) Assistant city recorder.

(ii) Contact information: Mailing address:

La Vergne City Hall
5093 Murfreesboro Road
La Vergne, TN 37086
Telephone: 615-287-8611; Fax: 615-793-6025
Email: PRRC@lavergnetn.gov

(2) Records custodian. (a) Upon receiving a public records request, a records custodian shall promptly make requested public records available in accordance with Tennessee Code Annotated, § 10-7-503. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, city attorney, or the OORC.

(b) If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then a records custodian shall, within seven (7) business days from the records custodian's receipt of the request, send the requestor a completed public records request response form (Form B), based on the form developed by the OORC.

(c) If a records custodian denies a public record request, he or she shall deny the request in writing as provided in § 20-404(1)(b)(ii) using the public records request response form.

(d) If a records custodian reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall use the public records request response form to notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requestor to see if the request can be narrowed.

(e) If a records custodian discovers records responsive to a records request were omitted, the records custodian should contact the requestor concerning the omission and produce the records as quickly as practicable.

(3) Redaction. (a) If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the records custodian should coordinate with the city attorney or other appropriate parties regarding review and redaction of records. The records custodian and the PRRC may also consult with the OORC.

(b) Whenever a redacted record is provided, a records custodian should provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information. (Ord. #2009-05, May 2009, as replaced by Ord. #2017-12, June 2017 ***Ch3_9-3-19***)

20-405. Inspection of records. (1) There shall be no charge for inspection of open public records.

(2) The location for inspection of records within the offices of the City of La Vergne should be determined by either the PRRC or the records custodian.

(3) Under reasonable circumstances, the PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location. (Ord. #2009-05, May 2009, as replaced by Ord. #2017-12, June 2017 ***Ch3_9-3-19***)

20-406. <u>Copies of records</u>. (1) A records custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.

(2) Copies will be available for pickup at a location specified by the records custodian.

(3) Upon payment for postage, copies will be delivered to the requestor's home address by the United States Postal Service.

(4) A requestor will not be allowed to make copies of records with personal equipment.

(5) Upon payment for labor costs exceeding one (1) hour (if any), existing electronic records will be delivered to the requestor's email address. (Ord. #2009-05, May 2009, as replaced by Ord. #2017-12, June 2017 ***Ch3_9-3-19***)

20-407. <u>Fees and charges and procedures for billing and payment</u>.

(1) Fees and charges for copies of public records should not be used to hinder access to public records.

(2) Records custodians shall provide requestors with an itemized estimate of the charges using Form C prior to producing copies of records and may require pre-payment of such charges before producing requested records.

(3) When fees for copies and labor do not exceed three dollars ($3.00), the fees may be waived. Requests for waivers for fees above three dollars ($3.00) must be presented to the City Administrator, who is authorized to determine if such waiver is in the best interest of the City of La Vergne and for the public good. Fees associated with aggregated records requests will not be waived.

(4) Fees and charges for copies are as follows:

(a) Fifteen cents ($0.15) per page for letter- and legal-size black and white copies.

(b) Fifty cents ($0.50) per page for letter- and legal-size color copies.

(c) One dollar ($1.00) per CD or DVD for electronic files.

(d) Two dollars ($2.00) per square foot for large scale maps, plats, aerial photos and drawings.

(e) All other materials shall be duplicated at the actual costs to the city.

(f) Labor when time exceeds one (1) hour.

(g) If an outside vendor is used, the actual costs assessed by the vendor.

(5) No duplication costs will be charged for requests for less than three dollars ($3.00).

(6) Payment is to be made in cash, by personal check or by money order, payable to the City of La Vergne presented to the PRRC.

(7) Payment in advance will be required when costs are estimated to exceed fifty dollars ($50.00).

(8) Aggregation of frequent and multiple requests. (a) The City of La Vergne will aggregate record requests in accordance with the frequent and multiple request policy promulgated by the OORC when more than (4) requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert).

(b) If aggregating:

(i) The level at which records requests will be aggregated is by department.

(ii) The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the records custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.

(iii) Requests for current records that are routinely released and readily accessible that are excluded from aggregation include, but are not limited to: agendas, minutes, ordinances, and resolutions that can be found on the city's website at www.lavergnetn.gov. (as added by Ord. #2017-12, June 2017 ***Ch3_9-3-19***)

20-408. Disposition of records. (1) The following positions are charged with authorizing and approving the disposition and destruction of records that no longer have administrative, fiscal, legal, or historical value for their respective departments: city administrator, assistant city administrator, city engineer, city recorder, codes director, finance director, fire chief, human resources director, information technology director, library director, parks and recreation director, police chief, public works manager, tax collector, and utilities manager.

(2) The positions described above are charged with maintaining the records in their respective departments.

(3) The positions described above are authorized to dispose of any permanent paper record in their department when the record has been photocopied, photostated, filmed, microfilmed, preserved by microphotographic process, or reproduced onto computer or removable computer media, including CD-ROM or DVD-ROM disks, in accordance with Tennessee Code Annotated, § 10-7-121.

(4) The disposition of records shall be in accordance with the record retention schedule recommended by the University of Tennessee's Municipal Technical Advisory Service, pursuant to the authority granted in Tennessee Code Annotated, § 10-7-702. However, records may be retained for longer periods when it would be advisable or otherwise helpful to do so. (as added by Ord. #2017-12, June 2017 ***Ch3_9-3-19***)

CHAPTER 5

DENIAL AND REVOCATION OF CITY ISSUED PERMITS FOR NON-PAYMENT OF CITY FEES AND TAXES

SECTION

20-501. Purpose and intent.
20-502. Definitions.
20-503. Non-payment by permit applicants.
20-504. Activity covered by the denied or revoked permit.
20-505. Miscellaneous.

20-501. Purpose and intent. The ordinance codified in this chapter is adopted for the purpose of regulating the issuance, denial and revocation of city issued permits for the non-payment of city fees and taxes. (as added by Ord. #2011-01, Feb. 2011)

20-502. Definitions. (1) "City" means the City of La Vergne, a Tennessee Municipal Corporation, and all of its departments and subdivisions.

(2) "City fees" means any and all charges for service and/or products provided by, privileges granted by, or fines levied or imposed by, the city.

(3) "City taxes" means any and all taxes imposed by the city pursuant to its authority to tax.

(4) "Non-payment" means the failure to pay or otherwise satisfy, in full city fees, taxes or a monetary debt or obligation owed to the city.

(5) "Notice" means written notice.

(6) "Permit" means any and all permits, licenses or grants of permission issued by or on behalf of the city to perform any act regulated by the city.

(7) "Permittee" means any individual, business entity and corporate entity, for profit and otherwise, presently holding a city issued permit. (as added by Ord. #2011-01, Feb. 2011)

20-503. Non-payment by permit applicants. (1) In the event of non-payment by a permittee, no permit for the same property shall be issued by or on behalf of the city to any person owning the property or agents or lessees of the person owning the property or any person occupying the property until the city is paid in full for the fee, tax or monetary debt or obligation owed to the city by the permittee.

(2) The permittee shall be sent notice of non-payment to the address identified on the permit in question, and will be provided a hearing date before the city administrator at which time the permittee and/or the permittee's representative may be heard as to the revocation of the permit. If, at the conclusion of the hearing, the city administrator determines that the permittee

has failed to pay or otherwise satisfy, in full, a monetary debt or obligation owed to the city, the city administrator shall revoke the permit.

(3) Any permittee whose permit was revoked and who, after satisfying the non-payment in full, desires to obtain a new permit for the same or similar use and or activity, must apply for a new permit and comply with all applicable rules, regulations, ordinances and laws regarding the same. (as added by Ord. #2011-01, Feb. 2011)

20-504. Activity covered by the denied or revoked permit. No other permits will be granted to any permit applicant in the event of non-payment by the permit applicant. (as added by Ord. #2011-01, Feb. 2011)

20-505. Miscellaneous. Other than set forth above, this chapter does not modify or otherwise alter the requirements of, and process for, obtaining permits. (as added by Ord. #2011-01, Feb. 2011)